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NOTICE

The undermentioned Gazettes of India Extraordinary were published during the week ending the 26th September 1951 :—

| Issue No. | No. and Date | Issued by | Subject |
|-----------|---|-----------------------------------|--|
| 137 | S. R. O. 1407, dated the 14th September 1951. | Ministry of Home Aff. & Ins. | Further amendment in the Notification No. 8/14/48 Judicial, dated the 5th July 1949. |
| 138 | S. R. O. 1408, dated the 15th September 1951. | Ministry of Food and Agriculture. | Removing restriction for the movement of cotton-seeds from any place in the State to any other place in that State except the State of Punjab to regulate or control the price, production, movement or distribution thereof in any manner whatsoever. |
| 139 | S. R. O. 1409, dated the 17th September 1951. | Ministry of Labour. | Award of the Industrial Tribunal, Calcutta, in the industrial dispute between the banking companies and their workmen in the State of Rajasthan. |

Copies of the Gazette Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of this Gazette.

PART II—Section 3

Statutory Rules and Orders issued by the Ministries of the Government of India (other than the Ministry of Defence) and Central Authorities (other than the Chief Commissioners).

MINISTRY OF LAW

New Delhi, the 24th September, 1951

S.R.O. 1472.—In exercise of the powers conferred by article 309 of the Constitution and all other powers enabling him in that behalf, the President is pleased to make the following rules:—

1 These rules may be called the Election Commission (Staff) (Recruitment and Conditions of Service) Rules, 1951.

2 In these rules, "Commission" means the Election Commission appointed under article 324 of the Constitution.

3. (1) Subject to any special provisions contained in these rules, the rules and orders for the time being in force and applicable to Government servants of corresponding classes in the service of the Government of India shall regulate the conditions of service of persons serving on the staff of the Commission;

(2) If any question arises as to which rules or orders are applicable to the case of any person serving on the staff of the Commission, it shall be decided by the Commission.

4. (1) The posts on the staff of the Commission specified in column 1 of the Schedule to these rules shall belong to the class specified against them in column 2 thereof; and the appointments thereto shall be made by the authorities specified against them in column 3 of the said Schedule.

(2) The authorities specified in column 4 of the said Schedule may impose any of the penalties specified in column 5 upon the members of the staff specified in column 1 thereof.

(3) Every member of the staff of the Commission shall be entitled to appeal against any order imposing penalties upon him to the authority specified in column 6 of the said Schedule.

5 All direct appointments to Class I and Class II posts and first appointments to Class III (Ministerial) posts on the staff of the Commission shall be made in consultation with the Union Public Service Commission.

SCHEDULE

| Title of Service or Post | Classification | Authority empowered to appoint | Authority empowered to impose penalties | Penalties which may be imposed | Appellate authority |
|---|------------------------------------|--|--|---|---------------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| Secretary, Election Commission. | General Central Service, Class I. | President in consultation with the Commission. | President in consultation with the Commission. | Any of the penalties specified in C. C. A. Rule 49. | .. |
| Assistant Secretary, Election Commission. | General Central Service, Class I. | President in consultation with the Commission. | President in consultation with the Commission. | Any of the penalties specified in C. C. A. Rule 49. | .. |
| Superintendents . . | General Central Service, Class II. | Election Commission | Election Commission | Any of the penalties specified in C. C. A. Rule 49. | President. |
| .. | .. | .. | Secretary, Election Commission. | Censure and Suspension. | Election Commission. |
| Private Secretary to the Chief Election Commissioner. | General Central Service, Class II. | Election Commission | Election Commission | Any of the penalties specified in C. C. A. Rule 49. | President. |
| .. | .. | .. | Secretary, Election Commission. | Censure and Suspension. | Election Commission. |
| Assistants . . . | General Central Service, Class II. | Secretary, Election Commission. | Secretary, Election Commission. | Any of the penalties specified in C. C. A. Rule 49. | Election Commission. |
| Stenographers . . | General Central Service, Class II. | Secretary, Election Commission. | Secretary, Election Commission. | Any of the penalties specified in C. C. A. Rule 49. | Election Commission. |
| Clerks and typists . . | Central Service Class III | Secretary, Election Commission. | Secretary, Election Commission. | Any of the penalties specified in C. C. A. Rule 49. | Election Commission. |
| .. | .. | .. | Assistant Secretary, Election Commission. | Censure and Suspension. | Secretary, Election Commission. |
| Daftries, Jemadars, Peons & Sweepers. | Class IV | Secretary, Election Commission. | Secretary, Election Commission. | Any of the penalties specified in C. C. A. Rule 49. | Election Commission. |
| .. | .. | .. | Assistant Secretary, Election Commission. | Censure and Suspension. | Secretary, Election Commission. |

[No. F. 101/50—G.A.]

K. V. K. SUNDARAM, Secy:

MINISTRY OF HOME AFFAIRS*New Delhi, the 22nd September 1951*

S.R.O. 1473.—Corrigendum.—In the notification of the Government of India in the Ministry of Home Affairs No. S.R.O. 1407, dated the 14th September, 1951, published in the *Gazette of India Extraordinary*, Part II, Section 3, dated the 14th September, 1951 for "1st September 1951" read "15th September 1951".

[No. 20/13/51-Judl.]

R. N. PHILIPS, Dy Secy.

MINISTRY OF STATES*New Delhi, the 5th September 1951*

S.R.O. 1474.—In exercise of the powers conferred by section 2 of the Part C States (Laws) Act, 1950 (XXX of 1950) the Central Government hereby extends to the State of Vindhya Pradesh the United Provinces Agricultural Income-tax Act, 1949 (United Provinces Act III of 1949), as at present in force in the State of Uttar Pradesh subject to the following modifications namely:—

Modifications

1. Throughout the Act except in the short title and unless otherwise provided for specifically—

(a) For the words "the United Provinces" "the Provincial Government" and "High Court" the words "Vindhya Pradesh", "the Chief Commissioner" and "Court of the Judicial Commissioner" shall respectively be substituted.

(b) For the words "Assistant Collector in charge of a sub-division" the words "Tehsildar, or an Assistant Sales Tax or Assistant Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of a Tehsildar under this Act" shall be substituted.

(c) For the word "Collector" the words "Deputy Commissioner, or a District Sales Tax or District Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of a Deputy Commissioner under this Act" shall be substituted.

(d) After the words "land revenue" the words "Barbast or Den" shall be added.

2. For sub-section (2) of section 1, the following subsection shall be substituted, namely, "(2) It shall come into force at once."

3. In Section 2,—

(a) In sub-clause (a) of clause (1) for the words "Officer of the Provincial Government" the words "Officer appointed by the Chief Commissioner in the State" shall be substituted.

(b) The proviso to clause (3) shall be omitted.

(c) For clause (4) the following clause shall be substituted, namely, "(4) 'Tehsildar' and 'Deputy Commissioner', shall respectively have the same meaning as in the Rewa State Land Revenue and Tenancy Code, 1935."

(d) For clause (7), the following clause shall be substituted, namely:—

"(7) 'Board' means the Board of Revenue, Vindhya Pradesh."

(e) In clause (10), for the words "has the meaning assigned to it in the United Provinces Tenancy Act, 1939" the words "means a person in whose favour the whole or part of revenue of any specific area of land in a village or of a whole village has been assigned" shall be substituted.

(f) In clause (17), for the words "as defined in the United Provinces Tenancy Act, 1939" the words "commencing on the 1st day of July and ending on the 30th day of June" shall be substituted.

4. In sub-section (1) of section 3 after the words "for each year" the words and figures "beginning with the year ending on the 30th June 1952" shall be inserted.

5. In section 4 the following further proviso shall be added, namely:—

"Provided further that the Chief Commissioner may by order in writing exempt from the payment of the tax for such period as he may think fit such person or persons as have in his opinion brought fallow or nautor land under cultivation."

6 (a) clause (c) of section 5;

(b) sub-clauses (iii) and (xii) of clause (b) of sub-section (2) of section 6; and
(c) sub-section (3) of section 44 shall be omitted.

7. In the Schedule to the Act in item (B) of Part II, for the words "the Co-operative Societies Act, 1912 or under the Act of the Provincial Legislature governing the registration of Co-operative Societies" the words "the Vindhya Pradesh Co-operative Societies Ordinance, 1949" shall be substituted.

ANNEXURE

The United Provinces Agricultural Income-tax Act, 1949 (U. P. Act III of 1949) as modified by this notification.

THE UNITED PROVINCES AGRICULTURAL INCOME-TAX ACT, 1948

UNITED PROVINCES ACT NO. III OF 1949

An Act to provide for the imposition of a tax on agricultural income:

PREAMBLE.

WHEREAS it is expedient to impose a tax on agricultural income in the Vindhya Pradesh.

It is hereby enacted as follows:

CHAPTER I

PRELIMINARY

1. **Short title, extent and commencement.**—This Act may be called the United Provinces Agricultural Income-tax Act, 1948.

(1) It extends to the whole of the State of Vindhya Pradesh.

(2) It shall be deemed to have come into force at once.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(1) "agricultural income" has the same meaning as is assigned to it in the Indian Income-tax Act, 1922 (Act XI of 1922), and which in its adapted form is reproduced below:

"agricultural income" means—

(a) any rent or revenue derived from land which is used for agricultural purposes and is either assessed to land revenue in Vindhya Pradesh or is subject to a local rate or cess assessed and collected by an Officer appointed by the Chief Commissioner in the State.

(b) any income derived from such land by—

(i) agriculture, or

(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in sub-clause (ii);

(c) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator or the receiver of rent-in-kind of any land with respect to which, or the produce of which, any operation mentioned in paragraphs (ii) and (iii) of sub-clause (b) is carried on :

Provided that the building is on or in the immediate vicinity of the land, is a building which the receiver of the rent or revenue or the cultivator or the receiver of the rent-in-kind by reason of his connexion with the land, requires as a dwelling-house, or as a store-house, or other out-building;

(2) "agricultural income-tax" means tax payable under this Act and includes super-tax;

(3) "Additional Commissioner" and "Commissioner" mean persons appointed by the Chief Commissioner to perform the duties of the Additional Commissioner or Commissioner as the case may be under this Act;

(4) 'Tehsildar' and 'Deputy Commissioner' shall respectively have the same meaning as in the Rewa State Land Revenue and Tenancy Code, 1935.

(5) "assessee" means a person by whom agricultural income-tax is payable;

(6) "Assessing authority" means a person authorised by the Chief Commissioner to assess agricultural income-tax;

(7) "Board" means the Board of Revenue, Vindhya Pradesh.

(8) "Company" means a company as defined in the Indian Income-tax Act, 1922 (XI of 1922);

(9) "firm" has the meaning assigned to it in the Indian Partnership Act, 1932 (IX of 1932);

(10) "landlord" means a person in whose favour the whole or part of revenue of any specific area of land in a village or of a whole village has been assigned.

(11) "person" means an individual or association of individuals, owning or holding property for himself or for any other, or partly for his own benefit and partly for that of another, either as owner, trustee, receiver, manager, administrator or executor or in any capacity recognised by law, and includes an undivided Hindu family, firm or company but does not include a local authority;

(12) "prescribed" means prescribed by rules made under this Act;

(13) "previous year" means the twelve months ending on the 30th day of June preceding the year for which the assessment is to be made;

(14) "principal officer" used with reference to any company or association means—

(i) the secretary, treasurer, manager or agent of the company or association,
or

(ii) any person connected with the company or association upon whom the assessing authority has served notice of his intention of treating him as principal officer thereof;

(15) "public servant" has the same meaning as in the Indian Penal Code (XLV of 1860).

(16) "total agricultural income" means the aggregate of the amounts of agricultural income of the different classes specified in sections 5 and 6 determined respectively in the manner laid down in the said sections and includes all receipts of the description specified in clauses (a), (b) and (c) of sub-section (1) of section 2, and

(17) "year" means the agricultural year commencing on the 1st day of July and ending on the 30th day of June.

CHAPTER II

CHARGE OF AGRICULTURAL INCOME-TAX

3. Charge of agricultural income-tax.—(1) Agricultural income-tax and super-tax at the rate or rates specified in the schedule shall be charged for each year beginning with the year ending on the 30th June, 1952, in accordance with, and subject to the provisions of this Act and rules framed under clauses (a), (b) and (c) of sub-section (2) of section 44 on the total agricultural income of the previous year of every person.

(2) Where there is included in the total agricultural income of an assessee any income exempted from agricultural income-tax by or under the provisions of this Act, the agricultural income-tax payable by the assessee shall be an amount bearing same proportion to the total amount of the agricultural income-tax which would have been payable on the total agricultural income had no part of it been exempted as the unexempted portion of the total agricultural income bears to the total agricultural income.

4. Limit of taxable income.—Agricultural income-tax shall be payable by a person whose total agricultural income of the previous year exceeds Rs. 3,000, or, in the case of any society, trust or other association of individuals, such higher figures as may be prescribed:

Provided that the tax shall not be payable by a person who cultivates not more than 50 acres of land and whose agricultural income under clause (a) of sub-section (1) of section 2 does not exceed Rs. 50:

Provided further that the Chief Commissioner may, for specified areas, prescribe a higher limit for the area of land which may be cultivated by a person exempted from payment of tax under the first proviso:

Provided further that the Chief Commissioner may by order in writing exempt from the payment of the tax for such period as he may think fit such person or persons as have in his opinion brought fallow or nautor land under cultivation.

5. Determination of agricultural income.—The agricultural income mentioned in clause (a) of sub-section (1) of section 2 shall be deemed to be the sum realised in the previous year on account of agricultural income mentioned in the said clause (a), after making the following deductions:

- (a) any sums paid in the previous year on account of land revenue, Barbast or Den rents, local rates and cesses and municipal taxes in respect of the entire land from which agricultural income may be derived;
- (b) collection charges on the sum realised in the previous year at the following rate:—

| | |
|--------------------------------|------------------|
| On first Rs. 10,000 | ... 12 per cent. |
| On next Rs. 90,000 | ... 11 per cent. |
| On any amount above Rs. 1 lakh | . 10 per cent |

- (c) any expense incurred in the previous year on the construction or maintenance of any irrigation productive or protective work constructed for the benefit of the land from which such agricultural income is derived;
- (d) any interest paid in the previous year on any mortgage or other capital charge incurred for the purpose of acquiring the property from which such agricultural income is derived; and
- (e) any *malikana* paid by the assessee in respect of the land from which such agricultural income is derived.

6. Computation of agricultural income.—(1) The agricultural income mentioned in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1) of section 2 shall, at the option of the assessee, be computed in accordance with clause (a) or clause (b) of sub-section (2):

Provided that an assessee who has once exercised his option shall not be entitled to vary the method of computation except with the permission of the Board of Revenue.

(2) (a) Subject to such deduction in respect of agricultural calamities as may be prescribed, the income shall be deemed to be such multiple, not exceeding $7\frac{1}{2}$ of the rent of the land, calculated at the latest sanctioned rent-rates applicable to hereditary tenants of similar class of soil as the Board of Revenue may fix for each district or portion thereof.

Provided that the Board of Revenue may direct that the multiple for calculating income from land newly brought under cultivation shall for the specified number of years be such lower figure as may be specified, or

(b) the income shall be the gross proceeds of sale of all the produce of land subject to the following deductions:

- (i) any sum paid in the previous year on account of land revenue, Barbast or Den local rates and cesses and municipal taxes;
- (ii) any rent paid in the previous year, to a landlord in respect of the land from which the agricultural income is derived;
- (iii) the expenses incurred in the previous year in raising the crop from which the agricultural income is derived, in making it fit for market and in transporting it to market, including the maintenance or hire of agricultural implements and cattle required for these purposes;
- (iv) any expenses incurred in the previous year on the construction or maintenance of any irrigation productive or protective work constructed for the benefit of the land from which the agricultural income is derived;
- (v) any sum paid in the previous year in order to effect the insurance against loss or damage of crops or property from which the agricultural income is derived;

Provided that any amount received in respect of such insurance in any year shall be deemed to be agricultural income for the purposes of this Act and shall be liable to agricultural income-tax after deducting the portion thereof, if any, which has been assessed to income-tax under the Indian Income-tax Act, 1922 (XI of 1922);

- (vi) any expenses incurred in the previous year on the maintenance of and capital asset if such maintenance is required for the purpose of deriving the agricultural income;
- (vii) the cost incurred in the previous year of replacement or of repairs in respect of any capital asset which was purchased or constructed not earlier than two years before the commencement of this Act, for the benefit of the land from which the agricultural income is derived;
- (viii) any interest paid in the previous year on any amount borrowed and actually spent in any capital expenditure incurred not earlier than two years before the commencement of this Act, for the benefit of the land from which the agricultural income is derived;
- (ix) where the land from which the agricultural income is derived is subject to a mortgage or other capital charge, any interest paid in the previous year in respect of such mortgage or charge;
- (x) any interest paid in the previous year on any secured or unsecured debt incurred for the purpose of acquiring the property from which the agricultural income is derived;
- (xi) such other deductions as may be prescribed;

Provided always that no deduction shall be made under this clause if it has already been made under section 5

(3) If the assessing authority is satisfied that the proceeds of sale have not been correctly shown by the assessee or that any portion of the produce has not actually been sold, he may assess the value of the produce for purposes of clause (b) of sub-section (1) of section 2 by determining, to the best of his judgment, the amount of produce and the market value thereof.

7. Exclusion of income derived from a house or building in occupation of receiver etc.—In computing agricultural income mentioned in clause (c) of sub-section (1) of section 2,

- (a) no income shall be deemed to accrue from a house or building if it is in the actual use and occupation of the receiver of rent or revenue or the cultivator or the receiver of rent-in-kind as the case may be;
- (b) any expenses incurred in repairs and maintenance of the building from which the agricultural income is derived shall be deducted from such agricultural income.

8. Exclusion of income from Trust etc.—Any income derived from property held under trust or other legal obligation wholly for religious or charitable purposes and in the case of property so held in part only for such purposes, the income applied or finally set apart for application thereto, shall be exempt from liability to tax under this Act.

9. Income from waqfs.—Income derived from a trust referred to in section 3 of the Mussalman Waqfs Validating Act, 1913, commonly known as Waqf-alal-aulad shall be assessed as income of one individual provided that the part of the income actually spent on public charitable purposes shall be exempt from liability to tax.

10. Assessment of income of undivided Hindu family.—Tax on agricultural income of an undivided Hindu family shall be so assessed that the share of income which a coparcener would receive upon partition of the family shall be treated as the separate income of each coparcener and shall be liable to tax as such provided firstly that a father and a son or a son's son how low soever shall be deemed to be one coparcener for the purposes of this section, and provided secondly that the income derived by a woman from her Stridhan property shall not be included in the agricultural income of the joint Hindu family.

11. Assessment to tax on common manager, receiver, etc.—(1) Where any person holds land, from which agricultural income is derived, as a common manager appointed under any law for the time being in force or under any agreement or as receiver; administrator or the like on behalf of persons jointly interested in such

land or in the agricultural income derived therefrom, the aggregate of the sums payable as agricultural income-tax by each person on the agricultural income derived from such land and received by him shall be assessed on such common manager, receiver, administrator or the like and he shall be deemed to be the assessee in respect of the agricultural income-tax so payable by each such person and shall be liable to pay the same.

(2) *Court of Wards etc.*—In the case of agricultural income taxable under this Act which is received by the Court of Wards, the Administrator General or the Official Trustee the tax shall be levied upon and recoverable from such Court of Wards, Administrator General or Official Trustee in the like manner and to the same extent as would be leviable upon and recoverable from any person on whose behalf such agricultural income is received, and all the provisions of this Act shall apply accordingly.

(3) Notwithstanding anything contained in sub-section (1), the appropriate assessing authority may in his discretion assess the tax directly on the person on whose behalf the agricultural income is receivable by such Court of Wards or Administrator General or the Official Trustee.

12 Exemption from assessment of income tax.—Agricultural income-tax shall not be payable by a person on

- (a) any sum which he receives as a share out of the agricultural income of a company which has certified that it has paid or will pay the tax under this Act in respect of the agricultural income of such Company,
- (b) any sum which he receives as his share out of the agricultural income of a firm or association of individuals, if the tax under this Act has been levied on the agricultural income of such firm or association,
- (c) any sum which he receives out of the agricultural income in respect of which tax under this Act has already been levied under section 11,
- (d) any sum paid by such person to effect an insurance on the life of such person or on the life of a wife or husband or dependent son of such person or in respect of a contract for a deferred annuity on the life of such person or on the life of a wife or husband or dependent son of such person, as the case may be provided that the aggregate of any sums exempted under this clause shall not exceed one-sixth of the total agricultural income of the assessee or Rs 6,000 whichever be the less.

Provided further that nothing contained in this clause shall be deemed to entitle a person who is assessed to income-tax under the Income-tax Act, 1922 (XI of 1922) to claim any exemption in respect of any sum referred to in this clause if it was exempted under section 15 of the said Act.

13 Agricultural income accruing in United Provinces to persons residing outside United Provinces.—In the case of any person residing outside the State of Uttar Pradesh all agricultural income accruing or arising to such person whether directly or indirectly through or from any land in the State shall be deemed to be derived within the State and shall be chargeable to agricultural income-tax in accordance with the provision of this chapter.

CHAPTER III

ASSESSING AUTHORITIES

14 Assessing authorities.—(1) For the purposes of this Act every Deputy Commissioner or a District Sales Tax or District or District Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of Deputy Commissioner under this Act and Tehsildar or an Assistant Sales Tax or Assistant Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of a Tehsildar under this Act shall be assessing authority and shall exercise and perform within his revenue jurisdiction such powers and duties as may be prescribed, provided that the Chief Commissioner may appoint a sub-officer as an assessing authority for such area as may be prescribed.

(2) In particular and without prejudice to the generality of the provisions of sub-section (1) the following authorities shall be the assessing authorities in the cases mentioned against each, namely:

- (a) Tehsildar, or an Assistant Sales Tax or Assistant Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of a Tehsildar under this Act

Where the gross agricultural income does not exceed Rs 1 lakh.

- (b) Deputy Commissioner or a District Sales Tax or District or District Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of Deputy Commissioner under this Act. In all cases office
- (c) Officer appointed under proviso to sub-section (1). In such cases as may be prescribed

CHAPTER IV

ASSESSMENT, DEDUCTION AND EXEMPTIONS

15 Return of income.—(1) The Deputy Commissioner, or a District Sales Tax or District or District Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of Deputy Commissioner under this Act shall on or before the 1st day of November, 1948, or on any such day as may be fixed by the Chief Commissioner give notice by publication in the official Gazettee and in such other manner as may be prescribed, requiring every person, other than a company, whose total agricultural income during the previous year exceeded the maximum amount which is not chargeable to agricultural income-tax to furnish to such assessing authority and within such period, not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth (along with such other particulars as may be required by the notice) his total agricultural income during the previous year.

Provided that the assessing authority specified in the notice may in his discretion extend the date for the delivery of the return in the case of any person or class of persons.

(2) The principal officer of every company shall on or before the prescribed date in each year furnish to the Deputy Commissioner, or a District Sales Tax or District or District Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of Deputy Commissioner under this Act a return in the prescribed form and verified in the prescribed manner, showing the total agricultural income of the company during the previous year.

Provided that the Deputy Commissioner or a District Sales Tax or District or District Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of Deputy Commissioner under this Act may in his discretion extend the date for the delivery of the return in the case of any company or class of companies.

(3) In the case of any person whose total agricultural income is in the opinion of the assessing authority, such amount as to render such person liable to payment of agricultural income-tax in any year he may serve in that year a notice in the prescribed form requiring such person to furnish within such period, not being less than thirty days as may be specified in the notice a return in the prescribed form and verified in the prescribed manner setting forth (along with such other particulars as may be provided for in the notice) his total agricultural income during the previous year.

Provided that the assessing authority may in his discretion extend the date for delivery of the return.

(4) If any person having furnished a return under sub-section (1) (2) or (3) discovers any omission or wrong statement therein he may furnish a return or a revised return, as the case may be at any time before the assessment is made and any return so made shall be deemed to be made in due time under this section.

16 Assessment.—(1) If the assessing authority is satisfied that a return made under section 15 is correct and complete he shall assess the total agricultural income of the assessee, and shall determine the sum payable by him on the basis of such return.

(2) If the assessing authority has reason to believe that a return made under section 15 is incorrect or incomplete, he shall serve on the person who made the return a notice requiring him on the date to be specified therein either to attend at the office of the assessing authority or to produce or to cause to be produced any evidence in support of the return.

(3) On the day specified in the notice issued under sub-section (2) or as soon afterwards as may be, the assessing authority, after seeing such evidence as such person may produce and such other evidence as the assessing authority may require on specified points, shall by an order in writing assess the total agricultural income of the assessee and determine the sum payable by him on such assessment.

(4) If the principal officer of any company or other person fails to make a return under sub-section (2) or (3) of section 15, as the case may be, or, having made the return, fails to comply with all the terms of the notice issued under sub-section (2) of this section or to produce any evidence required under sub-section (3) the assessing authority shall make the assessment to the best of his judgment:

Provided that before making such assessment, the assessing authority may allow the assessee such further time as he thinks fit to make the return or comply with the terms of the notice or to produce the evidence.

17. Penalty for concealment of income.—(1) If an assessing authority in the course of any proceedings before him under this Act is satisfied that an assessee has concealed the particulars of his agricultural income or has deliberately furnished inaccurate particulars of such income and has thereby returned it below its real amount, he may direct that the assessee shall, in addition to the agricultural income-tax payable by him pay by way of penalty a sum not exceeding the amount of agricultural income-tax which would have been avoided if the agricultural income so returned by the assessee had been accepted as the correct income:

Provided that no such order shall be made unless the assessee has been heard or has been given a reasonable opportunity of being heard:

Provided further that no prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

(2) If the Board, Commissioner, Additional Commissioner, or Collector makes an order under sub-section (1) he shall forthwith send a copy of the same to appropriate assessing authority.

18. Power to assess individual members of certain firms, associations and companies.—(1) Where the assessing authority is satisfied that any firm or other association of individuals carrying on any business [other than a joint Hindu family, a Muslim Waqf referred to in section 3 of the Musalman Waqfs Validating Act, 1913 (VI of 1913) or a company] is under the control of the one member thereof, and that such firm or association has been formed or is being used for the purpose of evading or reducing the liability to agricultural income-tax of any member thereof, he may, or if he is a Tehsildar, or an Assistant Sales Tax or Assistant Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of a Tehsildar under this Act, with the previous approval of the Deputy Commissioner, or a District Sales Tax or District Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of a Deputy Commissioner under this Act of the district concerned, pass an order that the sum payable as agricultural income-tax by the firm or association shall not be determined, and thereupon the share of each member in the agricultural income of the firm or association shall be included in his total agricultural income for the purpose of his assessment thereon.

Explanation—A member of a firm or association who owns the whole or the major portion of the capital of the firm or association shall not by reason only of that fact be deemed to control the firm or association.

(2) Where the Deputy Commissioner, or a District Sales Tax or District Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of a Deputy Commissioner under this Act is satisfied that a company is under the control of not more than five of its members and that its agricultural income is allowed to accumulate beyond its reasonable needs, existing and contingent, having regard to the maintenance and development of its business, without being distributed to the members, or that a reasonable part of its agricultural income, having regard to the said needs, has not been distributed to its members in such manner as to render the amount distributed liable to be included in their total agricultural income and that such accumulation or failure to distribute is for the purpose of preventing the imposition of agricultural income-tax upon any of the members in respect of their shares in the agricultural income so accumulated or not distributed, the Deputy Commissioner, or a District Sales Tax or District Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of a Deputy Commissioner under this Act may, with the previous approval of the Commissioner of the area concerned, pass an order that the sum payable as agricultural income tax by the company shall not be determined, and thereupon the proportionate share of each member in the agricultural income of the company, whether such agricultural income has been distributed to the members or not shall be included in the total agricultural income of such member for the purpose of his assessment thereon:

Provided that this sub-section shall not apply to any company which is a subsidiary company or in which the public are substantially interested.

Explanation.—For the purposes of this sub-section:

- (a) a company shall be deemed to be a subsidiary company if, by reason of the beneficial ownership of shares therein, the control of the company is in the hands of a company, not being a company to which the provisions of this sub-section apply, or of two or more companies none of which is a company to which those provisions apply;
- (b) a company shall be deemed to be a company in which the public are substantially interested if shares of the company, not being shares entitled to a fixed rate of dividend, whether with or without a further right to participate in profits, carrying not less than twenty-five per cent. of the voting power have been allotted unconditionally to, or acquired unconditionally by, and are at the end of the previous year beneficially held by, the public (not including the company to which the provisions of this sub-section apply), and if any such shares have in the course of such previous year been subject of dealings in any stock exchange in India or are, in fact, freely transferable by the holders to other members of the public;
- (c) unless the contrary is proved a company shall be deemed to be under the control of any person or group of persons where the majority of the voting power or shares is in the hands of such person or group of such persons or of relatives or nominees of such persons or group of such persons;
- (d) "nominee" means a person who may be required to exercise his voting power on the directions of, or holds share directly or indirectly on behalf of, another person

(3) The Commissioner shall not give his approval to any order proposed to be passed by the Deputy Commissioner, or a District Sales Tax or District Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of a Deputy Commissioner under this Act under this section until he has given the firm, association or company concerned an opportunity of being heard

(4) (i) Where any member of a firm or association of individuals makes default in the payment of agricultural income-tax on his share of agricultural income which has been included in his total agricultural income under the provisions of sub-section (1), such agricultural income-tax may be recovered from the firm or association, as the case may be.

(ii) Where the proportionate share of any member of a company in the undistributed agricultural income of the company has been included in his total agricultural income under the provisions of sub-section (2), the agricultural income-tax payable in respect thereof shall be recoverable from the company and may be recovered from such member, if there are not sufficient funds in the hands of the company to pay the tax, or if the winding up of the company has commenced.

(iii) Where agricultural income-tax is recoverable from a company, firm or other association under this sub-section, a notice of demand shall be served upon it in the prescribed form showing the sum so payable, and such company, firm or association shall be deemed to be the assessee in respect of such sum, for the purposes of Chapter V

(5) Where the agricultural income-tax has been paid in respect of an undistributed agricultural income of a company under this section and such agricultural income is subsequently distributed in any year, the proportionate share therein of any member of the company shall be excluded in computing his total agricultural income of that year.

19. Tax of deceased person payable by representative.—(1) Where a person dies, his executor, administrator or other legal representative shall be liable to pay out of the estate of the deceased person, to the extent to which the estate is capable of meeting the charge, the agricultural income-tax assessed as payable by such person, or any agricultural income-tax which would have been payable by him under this Act if he had not died.

(2) Where a person dies before the publication of the notice referred to in section 15(1), such publication shall be deemed to apply to his executor, administrator or other legal representative and the assessing authority may proceed to assess the total agricultural income of the deceased person as if such executor, administrator or other legal representative were the assessee

(3) Where a person dies before he is served with a notice under sub-section (3) of section 15 or section 16, as the case may be, the assessing authority may serve such notice on his executor, administrator or other legal representative and may proceed to assess the total agricultural income of the deceased person as if such executor, administrator or other legal representative were the assessee.

(4) Where a person dies, without having furnished a return which he has been required to furnish under the provisions of sub-section (3) of section 15 or section 16 or having furnished a return which the assessing authority has reason to believe to be incorrect or incomplete the assessing authority may make an assessment of the total agricultural income of such person and determine the tax payable by him on the basis of such assessment, and for this purpose may require from the executor, administrator or other legal representative of the deceased person any accounts, documents or other evidence which he might under the provisions of sub-sections (2) and (3) of section 16 have required from the deceased person.

20. Notice of demand.—When the assessing authority has determined the sum payable by an assessee under section 16 or when an order has been passed under section 17 for the payment of penalty, the assessing authority shall serve on the assessee a notice of demand in the prescribed form specifying separately the amount of tax and penalty.

21. Appeal against assessment under this Act.—(1) Any assessee objecting to the amount or rate at which he is assessed under section 16 or under section 18, or denying his liability to be assessed under this Act or objecting to any order against him under section 17 made by the assessing authority, may appeal to the Commissioner who may either himself decide the appeal or transfer it to the Additional Commissioner.

(2) Every appeal under this section shall be presented within the prescribed period, but the authority before whom the appeal is filed may admit an appeal after the expiration of the prescribed period, if it is satisfied that the appellant had sufficient cause for not presenting it within the prescribed period.

(3) The authority before whom the appeal is pending shall fix a day and place for the hearing of the appeal and may, from time to time, adjourn the hearing and make such further enquiry as it thinks fit.

(4) Every appeal under this section shall be presented in the prescribed form and shall be verified in the prescribed manner.

(5) In disposing of an appeal, the appellate authority may—

(a) in the case of an order of assessment, confirm, reduce, enhance or annul the assessment or set aside the assessment and direct the assessing authority to make a fresh assessment after such further enquiry as may be directed, and

(b) in the case of an order under section 17, confirm, cancel or vary such orders:

Provided that no enhancement of an assessment shall be made under this section, unless the appellant has had a reasonable opportunity of showing cause against such enhancement.

22. Revision by Board.—(1) The Board may, on their own motion or on an application, call for the record of any proceeding under this Act pending before or decided by any authority subordinate to the Board and after such inquiry as they deem necessary, may pass such orders as they think fit:

Provided that the Board shall not pass any order prejudicial to an assessee without giving him a reasonable opportunity of being heard.

(2) Any order passed by the Board under sub-section (1) shall, subject to any reference that may be made to the Court of the Judicial Commissioner under section 24, be final.

23. Communication to assessee of orders passed under section 21 or 22.—An authority passing any final order under section 21 or section 22 shall communicate such order to the assessee.

24. Reference to High Court.—(1) If in any proceeding other than a proceeding under Chapter VI, a question of law arises, the Board may, either on their own motion or on reference from any assessing authority subordinate to the Board, draw up a statement of the case and refer it, with their opinion, to the Court of Judicial Commissioner.

(2) Within sixty days of the communication of an order under section 21 or section 22, the assessee may, by application accompanied by a fee of one hundred

rupees or such lesser sum as may be prescribed, apply to the Board to refer to the Court of the Judicial Commissioner any question of law arising out of such order or decision, and the Board shall, within sixty days of the receipt of such application, draw up a statement of the case and refer it, with their opinion, to the Court of the Judicial Commissioner:

Provided that in computing the period of sixty days from the date on which the assessee was served with the notice of the order under section 21 the time during which any proceedings under section 22 in respect of the said order were pending shall be excluded:

Provided further that a reference from an order under section 22 shall lie only on a question of law arising out of that order itself:

Provided further that the Board, in exercise of their power of revision under section 22, may decide the question raised in the application and may thereupon reject the application or may refuse to state the case on the ground that no question of law arises or that it is time-barred or is otherwise incompetent.

(3) If the Board reject an application or on any other ground refuse to make a reference, they shall communicate such order to the assessee.

(4) If the Board reject the application under sub-section (2) or refuse to state the case on such application, the assessee may within three months of the communication of the order under sub-section (3) apply to the Court of the Judicial Commissioner and the Court of the Judicial Commissioner may, if it is not satisfied about the correctness of the decision of the Board, require the Board to state the case and refer it and on receipt of such requisition the Board shall state and refer the case to the Court of the Judicial Commissioner.

(5) If the assessee does not apply to the Court of the Judicial Commissioner under sub-section (4), the fee deposited by him under sub-section (2) shall be refunded.

(6) If the Court of the Judicial Commissioner is not satisfied that the statement in a case referred under this section is sufficient to enable it to determine the question raised thereby the Court may refer the case back to the Board to make such additions thereto or alterations therein as the Court may direct in that behalf.

(7) The Court of the Judicial Commissioner upon the hearing of any such case shall decide the questions of law raised thereby and shall deliver its judgment thereon containing the grounds on which such decision is founded and shall send to the Board a copy of such judgment under the seal of the Court and the signature of the Registrar; and the Board shall dispose of the case accordingly, or if the case arose on a reference from any assessing authority subordinate to the Board shall forward a copy of such judgment to such authority who shall dispose of the case in accordance with such judgment.

(8) In any reference to the Court of the Judicial Commissioner under this section the costs shall be in the discretion of the Court.

(9) Notwithstanding that a reference has been made under this section to the Court of the Judicial Commissioner, proceedings for the assessment and recovery of the agricultural income-tax may be continued:

Provided that if the amount of an assessment is reduced as a result of such reference, the amount overpaid shall be refunded with such interest as may be prescribed.

10. Section 5 of the Indian Limitation Act, 1908 (IX of 1908), shall apply to the application to the Court of the Judicial Commissioner, by an assessee under the provisions of this section.

25. Income escaping assessment.—If for any reason any agricultural income chargeable to agricultural income-tax has escaped assessment for any year or has been assessed at too low a rate, the assessing authority may, at any time within one year of the end of that year, serve on the person liable to pay agricultural income-tax on such agricultural income or, in the case of a company on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (3) of section 15 and may upon service of such notice proceed to assess or re-assess such income, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section:

Provided that the tax shall be charged at the rate at which it would have been charged if such income had not escaped assessment or full assessment, as the case may be.

26. Rectification of mistake.—(1) Any authority which passed an order of assessment or an order in appeal or revision may, on his own motion or on an application by the assessee at any time within one year from the date of such order, rectify any mistake apparent on the face of the record of the assessment appeal or revision, as the case may be:

Provided that no such rectification shall, if it has the effect of enhancing the assessment, be made unless the assessee has been given reasonable opportunity of being heard.

(2) Where any such rectification has the effect of reducing the assessment, the assessing authority shall refund the excess amount to the assessee.

(3) An order under sub-section (1) which has the effect of enhancing the assessment, shall be deemed to be an order under section 16, 21 or 22 as the case may be, and the provisions of this Act shall, in so far as they may be applicable, apply to such order.

27. Tax to be collected to the nearest anna.—In the determination of the amount of agricultural income-tax or of a refund payable under this Act, fractions of an anna less than six pice shall be disregarded and fractions of an anna equal to or exceeding six pice shall be regarded as one anna.

28. Power to take evidence on oath.—(1) The assessing, appellate and revisional authorities shall, for the purposes of this chapter, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 (V of 1908), when trying a suit in respect of the following matters, namely:

(a) enforcing the attendance of any person and examining him on oath or affirmation,

(b) compelling the production of any document, and

(c) issuing commission for the examination of any witness,

and any such proceeding before such authority under this chapter shall be deemed to be a "judicial proceeding" within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code (Act XLV of 1860).

(2) If any person, for the purpose of calculation of his agricultural income mentioned in clause (a) of sub-section (1) of section 2, produces before any authority under this Act any rent roll or other similar papers, showing the amount of rent received by him, he shall not be entitled to recover, or to institute, a suit to recover, rent due to him on any tenure or holding included in such return at a rate higher than the rate mentioned in such return as payable for such tenure or holding, unless the rent shown in such return has, since the date of the return, been lawfully enhanced.

(3) Any person who produced a rent roll referred to in sub-section (2) may, within one year of producing such roll, apply to the assessing authority to make any correction therein, and the assessing authority may, if he is satisfied that such correction should be made, pass order for correcting such rent roll.

(4) When the assessing authority passes any order under sub-section (3) he may assess, under section 26, any income escaping assessment by reason of the original incorrectness of any entry corrected.

29. Power to call for information.—The assessing authority may, for the purpose of this Act—

(1) require any firm, or Hindu undivided family to furnish him a return of the names and addresses of the members of the firm or the karta and the members of the family, as the case may be, and

(2) require any person whom he has reason to believe to be the trustee, guardian or agent to furnish him a return of the names and addresses of the persons for or of whom he is trustee or guardian or agent.

CHAPTER V

RECOVERY OF TAX AND PENALTY

30. Tax how payable.—(1) The amount specified in any notice of demand under section 20 or in any order communicated under section 23 shall be payable in four equal instalments.

(2) The first instalment shall be paid within one month of the service of the notice of demand or communication of the order, as the case may be, and each subsequent instalment within two months of the previous instalment.

(3) If any instalment is not paid within the time allowed under sub-section (2), the assessee shall be in default:

Provided that when an assessee has presented an appeal under section 21, the appellate authority, on application, may, on such terms and conditions as he may specify, direct that the assessee shall be treated as not being in default.

31. Penalty for default.—(1) When an assessee is in default in making a payment of agricultural income-tax, the assessing authority may, in his discretion, direct that in addition to the amount of the arrears, a sum not exceeding one-quarter of that amount shall be recovered from the assessee by way of penalty.

(2) For the purposes of sub-section (1), the Deputy Commissioner, or a District Sales Tax or District Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of a Deputy Commissioner under this Act may direct the recovery of any sum less than one-quarter of the amount of the arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default so however that the total sum so directed to be recovered shall not exceed one-quarter of the amount of the arrears payable.

32. Recovery of penalties.—(1) The Deputy Commissioner, or a District Sales Tax or District Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of a Deputy Commissioner under this Act may, on the motion of the assessing authority, recover any sum imposed by way of penalty under the provisions of section 17 or section 31, or, where an assessee is in default, the amount assessed as agricultural income-tax, as if it were an arrear of land revenue, barbast or den.

(2) No proceedings for the recovery of any sum payable under this Act shall be commenced after the expiration of one year from the date on which the last instalment fixed under section 30 falls due or after the expiration of one year from the date on which any appeal relating to such sum has been disposed of.

33. Right, title and interest of a member of Hindu undivided family or of other persons on whose behalf property is held, to pass to the purchaser when property is sold for realisation of arrears of tax.—Notwithstanding anything contained in any other enactment for the time being in force:

- (a) where any property of a Hindu undivided family is sold under this Act for the realisation of any amount due under this Act, the right, title and interest of all members of such family in the property shall pass to the purchaser;
- (b) where any person has been assessed to agricultural income-tax on the agricultural income derived from land held by him wholly or partly for the benefit of other persons and he is in default in respect of Government tax, the land so held by him may be attached and sold for the realisation of such tax, and on such sale, the right, title and interest of such persons in the said land shall pass to the purchaser.

CHAPTER VI

OFFENCES AND PENALTIES

34. False verification.—If any person makes a statement in a verification mentioned in section 15 or section 21 which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be deemed to have committed the offence described in section 177 of the Indian Penal Code (Act XLV of 1860).

35. Prosecution at the instance of Deputy Commissioner, or a District Sales Tax or District or District Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of Deputy Commissioner under this Act.—(1) A person shall not be proceeded against for an offence under section 34 except at the instance of the Deputy Commissioner, or a District Sales Tax or District or District Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of Deputy Commissioner under this Act.

(2) Before instituting proceedings against any person under sub-section (1), the Deputy Commissioner, or a District Sales Tax or District Excise Officer specially empowered by the Commissioner to exercise the powers and perform the functions of Deputy Commissioner under this Act shall call upon such person to show cause why proceedings should not be instituted against him.

(3) The Deputy Commissioner or a District Sales Tax or District Excise officer specially empowered by the Commissioner to exercise the powers and perform the functions of Deputy Commissioner under this Act may compound any such offence.

36 Disclosure of information by public servant.—(1) All particulars contained in any statement made, return furnished or accounts or documents produced under the provisions of this Act or in any evidence given or affidavit or deposition made in the course of any proceedings under this Act or in any record of any assessment proceedings or any proceeding relating to the recovery of a demand, prepared for the purposes of this Act shall be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872, (Act I of 1872), no court shall save as provided in this Act, be entitled to require any public servant to produce before it any such return, accounts, documents or record or any part of any such record or to give evidence before it in respect thereof.

(2) If a public servant discloses any particulars contained in any such statement, return, accounts, documents, evidence, affidavit, deposition or record, he shall be punishable with imprisonment of either description which may extend to six months, and shall also be liable to fine not exceeding rupees one thousand.

Provided that nothing in this section shall apply to the disclosure—

- (a) of any such particulars for the purposes of a prosecution under the Indian Penal Code in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition or for the purposes of a prosecution under this Act; or
- (b) of any such particulars to any person acting in the execution of this Act where it is necessary to disclose the same to him for the purposes of this Act; or
- (c) of any such particulars occasioned by the lawful employment, under this Act, of any process for the service of any notice or the recovery of any demand; or
- (d) of any such particulars occasioned by the lawful exercise by a public servant of his powers under the Indian Stamp Act, 1899, (Act II of 1899) to impound an insufficiently stamped document; or
- (e) of any rent roll or similar papers produced by any assessee as the basis of his agricultural income or any part of such income.

Provided further that no prosecution shall be instituted under this section except with the previous sanction of the Board.

37 Failure to furnish statement or to supply information.—If any person fails, without reasonable excuse, to furnish any statement or to supply any of the returns mentioned in section 15 or section 22, he shall be punishable with fine which may extend to five rupees for every day after the first day of default continues.

38 Bar of suit in civil court.—No suit shall be brought in any civil court to set aside or modify any assessment made under this Act and no prosecution, suit or other proceeding shall be against any officer or the Chief Commissioner for anything in good faith done or intended to be done under this Act.

CHAPTER VII

MISCELLANEOUS

39 Computation of periods of limitation.—In computing the period of limitation prescribed for any appeal under this Act the day on which the order complained of was made and the time requisite for obtaining a copy of such order shall be excluded.

40 Appearance by authorised representative.—Any assessee who is entitled or required to attend before any income-tax authority in connexion with any proceedings under this Act may attend either in person or by any person authorised by him in writing in this behalf.

41 Service of notices.—(1) A notice or requisition under this Act may be served on the person therein named either by post or as if it were a summons issued by a Court under the Code of Civil Procedure, 1908 (V of 1908).

(2) Any such notice or requisition may, in the case of a firm or a Hindu undivided family, be served on any member of the firm or on the *karta* or any adult male member of the family, and, in the case of any other association of individuals, be served on the principal officer thereof and any such notice or requisition so served shall be deemed to be a notice or requisition served on the firm, family, or association of individuals, as the case may be.

42. Receipts to be given.—A receipt shall be given for any money paid or recovered under this Act.

43. Indemnity.—(1) Notwithstanding anything contained in any other law or document for the time being in force, where any assessee has paid tax on any amount payable by him as maintenance or *guzara* to any other person, which he is, by law, decree of a court, agreement, contract, or other disposition of property, bound to pay to such person from his agricultural income, he may deduct such amount of tax from the amount payable to such person.

(2) Every person deducting, retaining or paying any tax in pursuance of this Act in respect of income belonging to another person, is hereby indemnified for the deduction, retention or payment thereof.

44. Power to make rules.—(1) The Chief Commissioner may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may:

- (a) provide, subject to conditions, for exemption from agricultural income-tax of income mentioned in sub-clauses (ii) and (iii) of clause (b) of sub-section (1) of section 2;
- (b) provide, subject to conditions, for exemption from or reduce the rate of agricultural income-tax payable by a Co-operative Society;
- (c) prescribe, in the case of any society, trust or other association of individuals, an amount higher than Rs. 1,500 on which agricultural income-tax shall not be payable or a higher figure of total agricultural income for determining liability to pay tax under section 4;
- (d) prescribe, for specified areas, a higher limit for the area of land which may be cultivated by a person exempt from payment of tax under the first proviso to section 4;
- (e) prescribe the calamities for which, the manner in which and the principles according to which, deductions may be allowed under sub-section (2) of section 6;
- (f) prescribe the period not being less than thirty days within which returns shall be submitted under sub-sections (1), (2) or (3) of section 15, the form of such returns and the manner in which they shall be verified;
- (g) prescribe the form of the notice of demand mentioned in section 20;
- (h) prescribe the manner in which and the period, not being less than thirty days, within which appeal under section 21 shall be filed and the manner in which the Memorandum of appeal shall be verified;
- (i) prescribe the fee mentioned in sub-section (2) of section 24;
- (j) prescribe the form of the notice of demand mentioned in sub-section (3) of section 26;
- (k) prescribe the method by which the assessment of agricultural income as determined under section 5 or section 6 shall be made in the case of an assessee who does not reside in the Vindhya Pradesh, or of an assessee who resides in the Vindhya Pradesh and is temporarily absent therefrom;
- (l) prescribe the manner in which the tax payable by an assessee, who died after the date of the assessment made on him shall be payable;
- (m) prescribe the manner in which the tax assessed on a Hindu undivided family shall be payable on partition of the property of such family;
- (n) prescribe the circumstances under which and the manner in which refunds of the tax under this Act shall be made;
- (o) prescribe the authority by whom and the place at which assessment shall be made in the case of assessee having agricultural income in the jurisdiction of more than one assessing authority;
- (p) provided for any other matter which by this Act may be prescribed.

SCHEDULE

(See Section 3)

RATES OF AGRICULTURAL INCOME-TAX

PART I

(A) In the case of every individual, Hindu undivided family, Muslim waqf, firm and other association of individuals, not being a case to which paragraph (B) of this part applies, the basic rates of agricultural income-tax will be as follows:

| | Rate |
|---|-----------------------------------|
| 1. On the first Rs. 1,500 of total agricultural income. | Nil. |
| 2. On the next Rs. 3,500 of total agricultural income. | One anna in the rupee |
| 3. On the next Rs. 10,000 of the total agricultural income. | One and a half annas in the rupee |
| 4. On the next Rs. 0,000 of total agricultural income. | Three annas in the rupee |
| On the balance of total agricultural income. | Four annas in the rupee |

These rates are subject to the conditions that—

- no agricultural income-tax shall be payable on a total agricultural income which does not exceed Rs. 3,000 and
- the agricultural income-tax payable shall in no case exceed half the amount by which the total agricultural income exceeds Rs. 3,000.

(B) In the case of a company, agricultural income-tax shall be payable on the whole of the agricultural income at the maximum rate of four annas in the rupee.

PART II

(A) In the case of every individual, Hindu undivided family, Muslim waqf, firm and other association of persons not being a case to which paragraph (B) or paragraph (C) of this part applies, the basic rates of agricultural super-tax shall be as follows:

| | Rate |
|---|--|
| 1. On the first Rs. 25,000 of total income .. | Nil |
| 2. On the next Rs. 0,000 „ „ .. | One anna in the rupee. |
| 3. On the next Rs. 0,000 „ „ .. | One and a half annas in the rupee. |
| 4. On the next Rs. 10,000 „ „ .. | Two annas in the rupee. |
| 5. On the next Rs. 10,000 „ „ .. | Two and a half annas in the rupee. |
| 6. On the next Rs. 10,000 „ „ .. | Three annas in the rupee. |
| 7. On the next Rs. 15,000 „ „ .. | Three and a half annas in the rupee. |
| 8. On the next Rs. 15,000 „ „ .. | Four annas in the rupee. |
| 9. On the next Rs. 15,000 „ „ .. | Four and a half annas in the rupee. |
| 10. On the next Rs. 20,000 „ „ .. | Five annas in the rupee. |
| 11. On the balance „ „ „ .. | Five and a quarter annas in the rupee. |

(B) In the case of an association of persons being a co-operative society for the time being registered under the Vindhya Pradesh Co-operative Societies Ordinance, 1949.

| | Rate |
|---|------------------------|
| On the first Rs. 25,000 of total agricultural income. | Nil |
| On the balance .. „ .. | One anna in the rupee. |

(C) In the case of every company :

| | |
|---|------------------------|
| On the whole of total agricultural income | One anna in the rupee. |
|---|------------------------|

New Delhi, the 19th September, 1951

S.R.O. 1475.—In exercise of the powers conferred by section 2 of the Part C States (Laws) Act, 1950 (XXX of 1950), the Central Government hereby extends to the State of Kutch the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (Bombay Act LVII of 1947), as at present in force in the State of Bombay subject to the following modifications.—

Modifications

1. Throughout the Act, except where otherwise expressly provided, for the words 'State Government' the words "Chief Commissioner" shall be substituted.
2. In section 2,
 - (i) in sub-section (1), for the words 'State of Bombay' the words "State of Kutch" shall be substituted;
 - (ii) for sub-section (2), the following shall be substituted:
 "(2) Parts II and III shall extend to the areas specified in the Schedule"
3. In section 3,
 - (i) in sub-section (2) for the figures "1950" the figures "1954" shall be substituted;
 - (ii) in sub-section (3) after the words "the Bombay General Clauses Act-1904", the words "as applied to Kutch" shall be inserted.
4. For clause (10) of section 5, the following shall be substituted, namely:—
 "(10) 'standard-rent' in relation to any premises means—
 (i) the rent at which the premises were let on the 10th day of November 1942, or
 (ii) where they were not let on the 10th day of November 1942, the rent at which they were last let before that day, or
 (iii) where they were first let after the 10th day of November 1942, the rent at which they were first let, or
 (iv) the rent fixed by the Rent Controller under the Kutch Rent Restriction Order revived by Order No. J-3849, dated the 15th September, 1947, or
 (v) in any of the cases specified in section 11, the rent fixed by the Court."
5. In sub-section (1) of section 6 for the words "Schedule I" the words, "the Schedule" shall be substituted.
6. In section 7—
 (i) for the words "first day of September 1940", the words "10th day of November 1942" shall be substituted.
 (ii) the words "was, before the coming into operation of this Act, entitled to recover such increase under the provisions of the Bombay Rent Restriction Act, 1909, or the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, or" shall be omitted.
7. In section 10A—
 (i) sub-sections (1) and (2) shall be omitted.
 (ii) in sub-section (3) for the words "other than the city of Bombay or those specified in Schedule III" the words "specified in such notification" shall be substituted.
8. Section 10-B shall be omitted.
9. In section 11—
 (i) for the words "first day of September 1940" in clause (a) of sub-section (1), the words "10th day of November 1942" shall be substituted.
 (ii) for the words "sub-clauses (i) to (iii) of clause (b)" in clause (b) sub-section (1), the words "clauses (i) to (iv)" shall be substituted.
10. In section 13—
 (i) in clause (a) of the Explanation to sub-section (2) for the words "first day of January 1947" the words "first day of January 1950" shall be substituted, and

(11) in the proviso to the Explanation for the words "date on which the Bombay Rents, Hotel and Lodging House Rates Control (Second Amendment) Act, 1950 comes into force" the words "seventh day of December, 1950" shall be substituted

(12) in clause (a) of sub-section (3B) for the words 'it thinks fit' the words 'he thinks fit' shall be substituted

11 In sub-section (3) of section 18 for the words "first day of September 1940" the words "10th of November 1942" shall be substituted

12 In sub-section (1) of section 21 for the words "one month" the words "two months" shall be substituted

13 In sub-section (1) of section 22 for the words "a month" the words "two months" shall be substituted

14 For section 28, the following shall be substituted, namely—

"28 Notwithstanding anything contained in any law all suits, proceedings, applications, claims, and questions arising out of this Act shall lie to, or to be determined by the Court of the Sub-Judge having jurisdiction in the area in which the premises situate."

15 For sub-section (1) of section 29 the following shall be substituted, namely—

(1) Notwithstanding anything contained in any law, an appeal from a decree or order made by a Sub-Judge exercising jurisdiction under section 28 shall lie to the District Court."

16 Section 35 shall be omitted

17 In section 42 for the words "as he deems fit" the words "as he deems fit" shall be substituted

18 In sub-section (1) of section 47 the words "a Presidency Magistrate or" shall be omitted

19 Sections 50 and 51 shall be omitted

20 For Schedules I to III to the Act the following Schedule shall be substituted, namely—

Schedule

(1) Bhuj Taluka

(a) Bhuj Municipal Borough

(2) Mandvi Taluka

(a) Mandvi Municipal Borough

(3) Mundra Taluka

(a) Mundra Municipal Borough

(4) Anjar Taluka

(a) Anjar Municipal Borough

(5) Abadasa Taluka

(a) Town of Naliya

(6) Rapar Taluka

(a) Rapar Municipal Borough

(7) Bhachau Taluka

(a) Bhachau Municipal Borough

(8) Nakhatrana Taluka

(a) Town of Nakhatrana"

ANNEXURE

The Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (Bombay Act LVII of 1947), as amended by the Bombay Rents, Hotel and Lodging House Rates Control (First and Second Amendments) Acts, 1950 (Bombay Acts XVI and LIII of 1950) and modified by this notification

BOMBAY ACT No. LVII OF 1947.

[THE BOMBAY RENTS, HOTEL AND LODGING HOUSE RATES CONTROL ACT, 1947.]

An Act to amend and consolidate the law relating to the control of rents and repairs of certain premises, of rates of hotels and lodging houses and of evictions.

WHEREAS it is expedient to amend and consolidate the law relating to the control of rents and repairs of certain premises of rates of hotels and lodging houses and of evictions; It is hereby enacted as follows:—

PART I

PRELIMINARY

1. Short title.—This Act may be called the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947.

2. Extent.—(1) Parts I and IV of this Act shall extend to the whole of the State of Kutch

(2) Parts II and III shall extend to the areas specified in the Schedule.

(3) The Chief Commissioner may, by notification in the *Official Gazette*, extend to any other area any or all of the provisions of Part II or Part III or of both.

(4) The Chief Commissioner may, at any time by like notification, direct that any or all of the provisions of Part II or Part III or of both, as the case may be, shall cease to extend to such area and on such date as may be specified in the notification; and on that date the said provisions shall cease to be in force in such area.

3. Commencement and duration.—(1) This Act shall come into operation on such date as the Chief Commissioner may, by notification in the *Official Gazette* appoint in this behalf.

(2) It shall remain in force upto and inclusive of the 31st day of March 1954.

Provided that the Chief Commissioner may, by notification in the *Official Gazette*, direct that it shall remain in force for a further period not exceeding two years

(3) Section 7 of the Bombay General Clauses Act, 1904 (Bom. I of 1904), as applied to Kutch shall apply upon the expiry of this Act or upon this Act or any provision thereof ceasing to be in force in any area, as if it had then been repealed by a Bombay Act.

4. Exemptions.—(1) This Act shall not apply to any premises belonging to the Government or a local authority or apply as against the Government to any tenancy or other like relationship created by a grant from the Government in respect of premises taken on lease or requisitioned by the Government; but it shall apply in respect of premises let to the Government or a local authority.

(2) The Chief Commissioner may direct that all or any of the provisions of this Act shall not, subject to such conditions and terms, as it may specify, apply generally to premises used for a public purpose of a charitable nature or to any particular premises or class of premises used for such purpose.

5. Definitions.—In this Act unless there is anything repugnant to the subject or context—

(1) "fair rate" means the rate fixed under section 33 and includes the rate as revised under section 34;

(2) "hotel or lodging house" means a building or part of a building where lodging with or without board or other service is provided for a monetary consideration;

(3) "landlord" means any person who is, for the time being, receiving, or entitled to receive, rent in respect of any premises whether on his own account or on account, or on behalf, or for the benefit, of any other person, or as a trustee, guardian, or receiver for any other person or who would so receive the rent or be entitled to receive the rent if the premises were let to a tenant; and includes any person not being a tenant who from time to time derives title under a landlord; and further includes in respect of his sub-tenant a tenant who has sub-let any premises;

(4) "legal representative" means a legal representative as defined in the Code of Civil Procedure, 1908 (V of 1908) and includes also, in the case of joint family property, the joint family of which the deceased person was a member.

(5) "manager of a hotel" includes any person in charge of the management of a hotel;

(6) "owner of a lodging house" includes any person who receives or is entitled to receive, whether on his own account or on behalf of himself and others or as an agent or trustee, any monetary consideration from any person on account of board, lodging or other service;

(7) "permitted increase" means an increase in rent permitted under the provisions of this Act;

(8) "Premises" means—

(a) any land not being used for agricultural purposes

(b) any building or part of a building let separately (other than a farm building including—

(i) the garden, grounds, garages and out-houses if any, appurtenant to such building or part of a building,

(ii) any furniture supplied by the landlord for use in such building or part of a building

(iii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof,

but does not include a room or other accommodation in a hotel or lodging house;

(9) "prescribe" means prescribe by rules and prescribed shall be construed accordingly.

(10) "standard rent" in relation to any premises means -

(i) the rent at which the premises were let on the 10th day of November 1942, or

(ii) where they were not let on the 10th day of November, 1942, the rent at which they were last let before that day, or

(iii) where they were first let after the 10th day of November 1942, the rent at which they were first let, or

(iv) the rent fixed by the Rent Controller under the Kutch Rent Restriction Order revived by Order No J-3849, dated the 15th September, 1947, or

(v) in any of the cases specified in section 11, the rent fixed by the Court;

(11) "tenant" means any person by whom or on whose account rent is payable for any premises and includes—

(a) such sub-tenants and other persons as have derived title under a tenant before the coming into operation of this Act.

(b) any person remaining, after the determination of the lease in possession, with or without the assent of the landlord, of the premises leased to such person or his predecessor who has derived title before the coming into operation of this Act, . . .

(c) any member of the tenant's family residing with him at the time of his death as may be decided in default of agreement by the Court.

(12) "tenement" means a room or group of rooms rented or offered for rent as a unit

PART II

RESIDENTIAL AND OTHER PREMISES

6. Application—(1) In areas specified in the Schedule this Part shall apply to premises let for residence, education, business, trade or storage.

Provided that the Chief Commissioner may, by notification in the *Official Gazette*, direct that in any of the said areas, this Part shall cease to apply to premises let for any of the said purposes. Provided further that the Chief Commissioner may by like notification direct that in any of the said areas this Part shall re-apply to premises let for such of the aforesaid purposes as may be specified in the notification.

(1A) The Chief Commissioner may, by notification in the *Official Gazette*, direct that in any of the said areas this Part shall apply to premises let for any other purpose.

(2) In areas to which this Part is extended under sub-section (3) of section 2 it shall apply to premises let for such of the purposes referred to in sub-section (1) or notified under sub-section (1A) or let for such standard rent as the Chief Commissioner may, by notification in the *Official Gazette*, specify

7. Rent in excess of standard rent illegal.—Except where the rent is liable to periodical increment by virtue of an agreement entered into before the 10th day of November 1942 it shall not be lawful to claim or receive on account of rent for any premises any increase above the standard rent unless the landlord liable to pay the same under sub-section (3) is entitled to recover such increase under the provisions of this Act

8 Cases where rent to be deemed and not to be deemed to be increased.—

(1) Where, as the result of any alteration of the terms of the tenancy, the terms on which any premises are held are on the whole less favourable to the tenant than the previous terms, the rent shall be deemed to be increased for the purposes of this Part whether the sum payable as rent is increased or not

(2) Where, as the result of any alteration of the terms of the tenancy, the terms on which any premises are held are not on the whole less favourable to the tenant than the previous terms the rent shall not be deemed to be increased for the purposes of this Part whether the sum payable as rent is increased or not

9 Increase in rent on account of improvement, etc., excepted.—A landlord shall be entitled to make such increase in the rent of the premises as may be reasonable, for any improvement or structural alteration of the premises which has been made with the consent of the tenant given in writing and such increase shall not be deemed to be an increase for the purposes of section 7

Explanation. In this section improvements and alterations do not include the repairs which the landlord is bound to make under sub-section (1) of section 23

10. Increase in rent on account of payment of rates etc., excepted.—Where a landlord is required to pay to a local authority in respect of any premises any rate, cess or tax imposed or levied for the purposes of such authority, he shall be entitled to make an increase in the rent of the premises by an amount not exceeding the increase paid by him by way of such rate, cess or tax over the amount paid in the period of assessment which included the date of the coming into operation of this Act or the date on which the premises were first let whichever is later and such increase in rent shall not be deemed to be an increase for the purposes of section 7

10A. Notwithstanding anything contained in section 10,—

the Chief Commissioner may, by notification published in the *Official Gazette*, direct that in any area specified in such notification, a landlord shall not be entitled to make any increase in rent in respect of any premises situate in such area on account of the payment by him of an increase in the rate or tax imposed or levied by any local authority for its own purpose on buildings, houses or lands, after such date, as may be specified in the notification

11. Court may fix standard rent and permitted increases in certain cases.—

(1) In any of the following cases the Court may upon an application made to it for that purpose or in any suit or proceeding fix the standard rent at such amount as having regard to the provisions of this Act and the circumstances of the case the Court deems just—

(a) where any premises are first let after the 10th day of November 1942 and the rent at which they are so let is in the opinion of the Court excessive or

(b) where the Court is satisfied that there is no sufficient evidence to ascertain the rent at which the premises were let in any one of the cases mentioned in clauses (i) to (iv) of clause (b) of sub-section (10) of section 5 or

(c) where by reason of the premises having been let at one time as a whole or in parts and at another time in parts or as a whole or for any other reasons, any difficulty arises in giving effect to this Part, or

(d) where any premises have been or are let rent-free or at a nominal rent or for some consideration in addition to rent or

(e) where there is any dispute between the landlord and the tenant regarding the amount of standard rent.

(2) If there is any dispute between the landlord and the tenant regarding the amount of permitted increase, the Court may direct the amount.

(3) If an application for fixing the standard rent or for determining the permitted increases is made by a tenant who has received a notice from his landlord under sub-section (2) of section 12 the Court shall forthwith make an order specifying the amount of rent or permitted increases to be paid by the tenant pending the final decision of the appeal and a copy of such order shall be served upon the landlord.

12. No ejectment ordinarily to be made if tenant pays or is ready and willing to pay standard rent and permitted increases—(1) A landlord shall not be entitled to the recovery of possession of any premises so long as the tenant pays or is ready and willing to pay the amount of the standard rent and permitted increases if any and observes and performs the other conditions of the tenancy in so far as they are consistent with the provisions of this Act.

(2) No suit for recovery of possession shall be instituted by a landlord against a tenant on the ground of non-payment of the standard rent or permitted increases due until the expiration of one month next after notice in writing of the demand of the standard rent or permitted increases has been served upon the tenant in the manner provided in section 106 of the Transfer of Property Act 1882 (IV of 1882).

(3) No decree for eviction shall be passed in any such suit if at the hearing of the suit, the tenant pays or tenders to the Court the standard rent or permitted increases then due together with the costs of the suit.

*Explanation—*In any case where there is a dispute as to the amount of standard rent or permitted increases recoverable under this Act the tenant shall be deemed to be ready and willing to pay such amount if, before the expiry of the period of one month after notice referred to in sub-section (2) he makes an application to the Court under sub-section (3) of section 11 and thereafter pays or tenders the amount of rent or permitted increases specified in the order made by the Court.

13 When landlord may recover possession—(1) Notwithstanding anything contained in this Act but subject to the provisions of section 15 a landlord shall be entitled to recover possession of any premises if the Court is satisfied—

- (a) that the tenant has committed any act contrary to the provisions of clause (o) of section 108 of the Transfer of Property Act 1882 (IV of 1882) or
- (b) that the tenant has without the landlord's consent given in writing, erected on the premises any permanent structure or
- (c) that the tenant or any person residing with the tenant has been guilty of conduct which is a nuisance or annoyance to the adjoining or neighbouring occupiers or has been convicted of using the premises or allowing the premises to be used for immoral or illegal purposes, or
- (d) that the tenant has given notice to quit and in consequence of that notice the landlord has contracted to sell or let the premises or has taken any other steps as a result of which he would in the opinion of the Court be seriously prejudiced if he could not obtain possession of the premises or
- (e) that the tenant has since the coming into operation of this Act sub-let the whole or part of the premises or assigned or transferred in any other manner his interest therein or
- (f) that the premises were let to the tenant for use as a residence by reason of his being in the service or employment of the landlord and that the tenant has ceased whether before or after the coming into operation of this Act to be in such service or employment or
- (g) that the premises are reasonably and *bona fide* required by the landlord for occupation by himself or by any person for whose benefit the premises are held or
- (h) that the premises are reasonably and *bona fide* required by the landlord for carrying out repairs which cannot be carried out without the premises being vacated or
- (hh) that the premises consist of not more than two floors and are reasonably and *bona fide* required by the landlord for the immediate purpose of demolishing them and such demolition is to be made for the

purpose of erecting new building on the premises sought to be demolished; or

(i) that where the premises are land, such land is reasonably and *bona fide* required by the landlord for the erection of a new residential building, or

(j) that the rent charged by the tenant for the premises or any part thereof which are sub-let before the coming into operation of this Act is in excess of the standard rent and permitted increases in respect of such premises or part or that the tenant has received any fine, premium, other like sum or consideration in respect of such premises or part; or

(k) that the premises have not been used without reasonable cause for the purpose for which they were let for a continuous period of six months immediately preceding the date of the suit; or

(l) that the tenant after the coming into operation of this Act has built, acquired vacant possession of or been allotted a suitable residence.

(2) No decree for eviction shall be passed on the ground specified in clause (g) of sub-section (1) if the Court is satisfied that, having regard to all the circumstances of the case including the question whether other reasonable accommodation is available for the landlord or the tenant, greater hardship would be caused by passing the decree than by refusing to pass it.

Where the Court is satisfied that no hardship would be caused either to the tenant or to the landlord by passing the decree in respect of a part of the premises, the Court shall pass the decree in respect of such part only.

Explanation.—For the purposes of clause (g) of sub-section (1)—

(a) a person shall not be deemed to be a landlord unless he has acquired his interest in the premises at a date prior to the beginning of the tenancy, or the first day of January 1950 whichever is later or, if the interest has devolved on him by inheritance or succession, his predecessor-in-title had acquired the interest at a date prior to the beginning of the tenancy, or the first day of January 1947, whichever is later.

(b) the expression "landlord" shall not include a rent-farmer or rent-collector or estate-manager.

Provided that nothing herein contained shall apply to the premises acquired by a trustee of a public charitable trust before the 7th day of December, 1950.

(3) The Court may pass the decree on the ground specified in clause (h) or (i) of sub-section (1) only in respect of a part of the premises which in its opinion it is necessary to vacate for carrying out the work of repairs or erection.

(3A) No decree for eviction shall be passed on the ground specified in clause (hh) of sub-section (1), unless the landlord produces at the time of the institution of the suit a certificate granted by the Tribunal under sub-section (3B) and gives an undertaking—

(a) that the new building to be erected by him shall contain not less than three times the number of residential tenements, and not less than three times the floor area, contained in the premises sought to be demolished;

(b) that the work of demolishing the premises shall be commenced by him not later than one month, and shall be completed not later than three months, from the date he recovers possession of the entire premises; and

(c) that the work of erection of the new building shall be completed by him not later than fifteen months from the said date.

(3B) (a) For the purposes of sub-section (3A), the Chief Commissioner may from time to time constitute a Tribunal consisting of such persons and for such local area as he thinks fit.

(b) The Tribunal constituted under clause (a) may grant a certificate after being satisfied that—

(i) the plans and estimates for the new building have been properly prepared;

(ii) such plans provide that the new building shall include tenements equivalent to the tenements which are proposed to be demolished. For the purpose of this paragraph, a tenement shall be deemed to be equivalent if the floor space of the tenement is not greater or less than the floor space of the corresponding tenement proposed to be demolished by more than ten percent.

- (iii) the necessary funds for the purpose of the erection of the new building are available with the landlord and
- (iv) such other conditions as the Chief Commissioner may by general or special order specify, have been satisfied

(c) The proceedings before the Tribunal shall be in the manner as may be prescribed by rules made by the Chief Commissioner in this behalf

(4) For the purposes of clause (j) of sub-section (1) the standard rent or permitted increases in respect of the part sub-let shall be the amounts bearing such proportion to the standard rent or permitted increases in respect of the premises as may be reasonable having regard to the extent of the part sub-let and other relevant considerations

14. Sub-tenant to become tenant on determination of tenancy.—Where the interest of a tenant of any premises is determined for any reason, any sub-tenant to whom the premises or any part thereof have been lawfully sub-let before the coming into operation of this Act shall, subject to the provisions of this Act, be deemed to become the tenant of the landlord on the same terms and conditions as he would have held from the tenant if the tenancy had continued.

15. Tenant not to sub-let or transfer after this Act.—Notwithstanding anything contained in any law, it shall not be lawful after the coming into operation of this Act for any tenant to sub-let the whole or any part of the premises let to him or to assign or transfer in any other manner his interest therein:

Provided that the Chief Commissioner may, by notification in the Official Gazette, permit in any area the transfer of interest in premises held under such leases or class of leases and to such extent as may be specified in the notification.

16. Recovery of possession for repairs; and re-entry.—(1) The Court shall when passing a decree on the ground specified in clause (h) of sub-section (1) of section 13 ascertain from the tenant whether he elects to be placed in occupation of the premises or part thereof from which he is to be evicted and, if the tenant so elects, shall record the fact of the election in the decree and specify in the decree the date on or before which he shall deliver possession so as to enable the landlord to commence the work of repairs.

(2) If the tenant delivers possession on or before the date specified in the decree the landlord shall, on the completion of the work of repairs, place the tenant in occupation of the premises or part thereof on the original terms and conditions.

(3) If, after the tenant has delivered possession on or before the date specified in the decree, the landlord fails to commence the work of repairs within one month of the specified date or fails to complete the work within a reasonable time or having completed the work fails to place the tenant in occupation of the premises in accordance with sub-section (2), the Court may, on the application of the tenant made within one year of the specified date, order the landlord to place him in occupation of the premises or part thereof on the original terms and conditions; and on such order being made the landlord and any person who may be in occupation shall give vacant possession to the tenant of the premises or part thereof.

(4) Any landlord who, when the tenant has vacated by the date specified in the decree, without reasonable excuse fails to commence the work of repairs and any landlord or other person in occupation of the premises who fails to comply with the order made by the Court under sub-section (3), shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both.

17. Recovery of possession for occupation, etc., and re-entry.—(1) Where a decree for eviction has been passed by the Court on the ground specified in clause (g) or (i) of sub-section (1) of section 13 and the premises are not occupied or the work of erection is not commenced within a period of one month from the date the landlord recovers possession or the premises are re-let within one year of the said date to any person other than the original tenant, the Court may, on the application of the original tenant made within thirteen months of such date order the landlord to place him in occupation of the premises on the original terms and conditions, and, on such order being made, the landlord and any person who may be in occupation of the premises shall give vacant possession to the original tenant.

(2) Any landlord who recovers possession on the ground specified in clause (g) or (i) of sub-section (1) of section 13 and keeps the premises unoccupied or does not commence the work of erection without reasonable excuse within the period of one month from the date he recovered possession and any landlord or other person in

occupation of the premises who fails to comply with the order of the Court under sub-section (1) shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both.

17A. (1) Where a decree for eviction has been passed by the court on the ground specified in clause (hh) of sub-section (1) of section 13 and the work of demolishing the premises has not been commenced by the landlord within the period specified in clause (b) of sub-section (3A) of the said section, the tenant may give the landlord a notice of his intention to occupy the premises from which he has been evicted and if the landlord does not forthwith deliver to him the vacant possession of the premises on the same terms and conditions on which he occupied them immediately before the eviction, the tenant may make an application to the Court within six weeks of the date on which he delivered vacant possession of the premises to the landlord.

(2) If the Court is satisfied that the landlord has not substantially commenced the work of demolishing the premises within the period of one month in accordance with his undertaking, the Court shall order the landlord to deliver to the tenant vacant possession of the premises on the terms and conditions on which he occupied them immediately before the eviction. On such order being made the landlord shall forthwith deliver vacant possession of the premises to the tenant. Such order shall be deemed to be an order within the meaning of clause (14) of section 2 of the Code of Civil Procedure, 1908.

(3) Any landlord who recovers possession on the ground specified in clause (hh) of sub-section (1) of section 13, and fails to carry out any undertaking referred to in clause (a), (b) or (c) of sub-section (3A) of the said section without any reasonable excuse or fails to comply with the order of the Court under sub-section (1) shall, without prejudice to his liability in execution of the order under section (2) on conviction be punishable with imprisonment for a term which may extend to three months or with fine or with both.

17B. Where a decree for eviction has been passed by the Court on the ground specified in clause (hh) of sub-section (1) of section 13 and the work of demolishing the premises and of the erection of a new building has been commenced by the landlord, the tenant may, within six months from the date on which he delivered vacant possession of the premises to the landlord, give notice to the landlord of his intention to occupy a tenement in the new building on its completion on the following conditions, namely:—

(a) that he shall pay to the landlord the standard rent in respect of the tenement;

Provided that, in respect of a residential tenement, the tenant concerned shall not be required to pay rent in relation to the area at more than double the rate at which he paid rent for his former premises immediately before his eviction under the decree;

(b) that his occupation of the tenement shall, save as provided in condition (a) above, be on the same terms and conditions as the terms and conditions on which he occupied the premises immediately before the eviction.

17C. (1) On receipt of notice from the tenant under section 17B, the landlord shall, not less than three months before the date on which the erection of the new building is likely to be completed, intimate to the tenant the date on which the said erection shall be completed. On the said date the tenant shall be entitled to occupy the tenement.

(2) (a) If the tenant fails to occupy the tenement within a period of one month from the date on which he is entitled to occupy it under sub-section (1) the tenant's right to occupy the said tenement under the said sub-section shall terminate and the landlord shall be entitled to recover from the tenant a sum equal to three times the amount of the monthly standard rent in respect of the tenement.

(b) If the landlord fails without reasonable excuse to comply with the provisions of sub-section (1) or to place the tenant in occupation of the tenement, he shall, without prejudice to his liability to place the tenant in vacant possession of the tenement on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both.

18. Unlawful charges by landlord.—(1) If any landlord either himself or through any person acting or purporting to act on his behalf or if any person acting or purporting to act on behalf of the landlord receives any fine, premium or other like sum or deposit or any consideration, other than the standard rent or the permitted increase, in respect of the grant, renewal or continuance of a lease of any premises,

or for giving his consent to the transfer of a lease by sub-lease or otherwise such landlord or person shall, on conviction be punished with imprisonment for a term which may extend to six months and shall also be punished with fine which shall not be less than the amount of the fine premium or sum or deposit or the value of the consideration received by him, and further where the offence is committed by a landlord in respect of premises which were of his ownership on the date of the offence such premises shall be liable to confiscation.

(2) Where any fine premium or other like sum or deposit or any consideration referred to in sub-section (1) is paid by any person the amount or value thereof shall be recoverable by him from the landlord to whom it was paid or on whose behalf it was received or from his legal representative at any time within a period of six months from the date of payment and may if such person is a tenant, without prejudice to any other remedy for recovery be deducted by him from any rent payable by him to such landlord.

(3) Nothing in this section shall apply to any payment made under any agreement entered into before the 10th of November 1942.

Explanation—For the purposes of sub-section (1)—

- (a) receipt of rent in advance for more than three months in respect of premises let for the purpose of residence or
- (b) where any furniture or other article is sold by the landlord to the tenant either before or after the creation of tenancy of any premises the excess of the price received over the reasonable price of the furniture or article

shall be deemed to be a fine or premium or consideration.

19 Unlawful charges by tenant—(1) It shall not be lawful for the tenant or any person acting or purporting to act on behalf of the tenant to claim or receive any sum or any consideration as a condition of the relinquishment of his tenancy of any premises.

(2) Any tenant or person who in contravention of the provisions of sub-section (1) received any sum or consideration shall, on conviction be punished with imprisonment for a term which may extend to six months and shall also be punished with fine which shall not be less than the sum or the value of the consideration received by him.

20 Recovery of amounts paid not in accordance with Act—Any amount paid on account of rent after the date of the coming into operation of this Act shall except in so far as payment thereof is in accordance with the provisions of this Act be recoverable by the tenant from the landlord to whom it was paid or on whose behalf it was received or from his legal representative at any time within a period of six months from the date of payment and may without prejudice to any other remedy for recovery be deducted by such tenant from any rent payable by him to such landlord.

21 Landlord to furnish particulars of rent, etc. to tenant—(1) Every landlord shall, upon a notice served upon him by the tenant by post or in any other manner, furnish to such tenant within two months of the receipt of such notice a statement giving full particulars of the amount of standard rent of the premises or part thereof let to such tenant and of the permitted increases.

(2) Any landlord who fails to furnish such statement or any landlord or his agent who intentionally furnishes a statement which is false in any material particular shall be punishable with fine which may extend to one thousand rupees.

22 Particulars to be furnished by tenant of tenancy sub-let or transferred before this Act—(1) Every tenant who before the date of the coming into operation of this Act has, without the consent of the landlord given in writing, sub-let the whole or any part of the premises let to him or assigned or transferred in any other manner his interest therein and every sub-tenant to whom the premises are so sub-let or the assignment or transfer is so made shall furnish to the landlord within two months of the receipt of a notice served upon him by the landlord by post or in any other manner a statement in writing signed by him giving full particulars of such sub-letting, assignment or transfer including the rent charged or paid by him.

(2) Any tenant or sub-tenant who fails to furnish such statement or intentionally furnishes a statement which is false in any material particular shall be punishable with fine which may extend to one thousand rupees.

23. Landlord's duty to keep premises in good repair.—(1) Notwithstanding anything contained in any law for the time being in force and in the absence of an agreement to the contrary by the tenant, every landlord shall be bound to keep the premises in good and tenantable repair

(2) If the landlord neglects to make within a reasonable time, after a notice is served upon him by post or in any other manner any repairs which he is bound to make under sub-section (1), the tenant may make the same himself and deduct the expenses of such repairs from the rent or otherwise recover them from the landlord

Provided that the amount so deducted or recoverable in any year shall not exceed one-twelfth of the rent payable by the tenant for that year

24. Landlord not to cut off or withhold essential supply or service.—(1) No landlord either himself or through any person acting or purporting to act on his behalf shall without just or sufficient cause cut off or withhold any essential supply or service enjoyed by the tenant in respect of the premises let to him.

(2) A tenant in occupation of the premises may, if the landlord has contravened the provisions of sub-section (1) make an application to the Court for a direction to restore such supply or service

(3) If the Court on inquiry finds that the tenant has been in enjoyment of the essential supply or service and that it was cut off or withheld by the landlord without just or sufficient cause, the Court shall make an order directing the landlord to restore such supply or service before a date to be specified in the order. Any landlord who fails to restore the supply or service before the date so specified shall for each day during which the default continues thereafter be liable to fine which may extend to one hundred rupees

(4) Any landlord who contravenes the provisions of sub-section (1) shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both

Explanation—In this section essential supply or service includes supply of water, electricity, lights in passages and on stair-cases, lifts and conservancy or sanitary service

25. Conversion of residential into non-residential premises prohibited.—(1) A landlord shall not use or permit to be used for a non-residential purpose any premises which on the date of the coming into operation of this Act were used for a residential purpose

(2) Any landlord who contravenes the provisions of sub-section (1) shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both

26. Giving receipt for rent compulsory.—(1) Every landlord shall give a written receipt for any amount received by him in respect of any premises in such form and in such manner as may be prescribed

(2) Any landlord or person who fails to give a written receipt for any amount received by him in respect of any premises shall on conviction, be punishable with fine which may extend to one hundred rupees

27. Recovery of rent according to British calendar.—(1) Notwithstanding anything contained in any law for the time being in force or any contract, custom or local usage to the contrary rent payable by the month or year or portion of a year shall be recovered according to the British calendar

(2) The Chief Commissioner may prescribe the manner in which rent recoverable according to any other calendar before the coming into operation of this Act shall be calculated and charged in terms of the British Calendar

28. Jurisdiction of courts.—Notwithstanding anything contained in any law, all suits, proceedings, applications, claims and questions arising out of this Act shall lie to, or to be determined by the Court of the Sub-Judge having jurisdiction in the area in which the premises situate

29. Appeal.—(1) Notwithstanding anything contained in any law, an appeal from a decree or order made by a Sub-Judge exercising jurisdiction under section 28 shall lie to the District Court

(2) Every appeal under sub-section (1) shall be made within thirty days from the date of the decree or order, as the case may be

Provided that in computing the period of limitation prescribed by this sub-section the provisions contained in sections 4, 5 and 12 of the Indian Limitation Act, 1908 (10 of 1908) shall so far as may be apply

(2) No further appeal shall lie against any decision in appeal under sub-section (1).

29A. Saving of suits involving title.—Nothing contained in section 28 or 29 shall be deemed to bar a party to a suit, proceeding or appeal mentioned therein in which a question of title to premises arises and is determined, from suing in a competent court to establish his title to such premises.

30. Compensation in respect of proceedings which are not *bona fide* or are false, frivolous or vexatious.—If the court finds that any suit, proceeding or application instituted or made before it is not instituted or made *bona fide* or is false, frivolous or vexatious, the court may, after hearing the plaintiff or applicant and for reasons to be recorded, order that compensation, not exceeding one thousand rupees, be paid by such plaintiff or applicant to the defendant or opponent, as the case may be.

31. Procedure of courts.—The courts specified in sections 28 and 29 shall follow the prescribed procedure in trying and hearing suits, proceedings, applications and appeals and in executing orders made by them.

PART III

HOTELS AND LODGING HOUSES

32. Appointment of Controller.—The Chief Commissioner may by notification in the Official Gazette appoint any person to be a Controller for any area for the purposes of this Part.

33. Fixation of fair rates, percentage of accommodation and number of lodgers.—(1) The Controller may fix a fair rate to be charged for board, lodging or other service provided in a hotel or lodging house at such amount as having regard to the circumstances of the case, he deems just. The Controller may also fix the percentage of accommodation for daily and monthly lodgers, respectively, in a hotel or lodging house.

(2) The Controller may fix a fair rate separately for—

- (i) lodging with reference to the nature of the accommodation and the number of lodgers to be accommodated;
- (ii) board, partial or full;
- (iii) other service.

(3) The Controller may fix fair rates separately for daily and monthly lodgers.

(4) The Controller shall also fix the number of lodgers to be accommodated in each room or specified accommodation in the hotel or lodging house.

Explanation.—For the purposes of this Part, a lodger who agrees to reserve accommodation in a hotel or lodging house for a period of less than a month shall be deemed to be a daily lodger.

34. Revision of fair rates, percentage of accommodation and number of lodgers.—The Controller may, from time to time, revise the fair rates, the percentage of accommodation or the number of lodgers fixed under section 33.

35. Notice of fair rate, percentage of accommodation and number of lodgers to be displayed.—Where under section 33 or section 34 the Controller has fixed or revised the fair rate, the percentage of accommodation or the number of lodgers he shall direct the manager of the hotel or the owner of the lodging house, as the case may be, to display a notice of the fair rate, percentage of accommodation, the number of lodgers and all the provisions of this Act relating thereto in a conspicuous manner in the hotel or lodging house and also in the room or accommodation in respect of which the fair rate and the number of lodgers are fixed or revised.

36. Charges not recoverable in excess of fair rate.—(1) Notwithstanding any agreement to the contrary, no manager of a hotel or owner of a lodging house shall charge any amount in excess of the fair rate

(2) When the Controller has fixed the fair rate any agreement for the payment of any charges in excess of such fair rate shall be void in respect of such excess and shall be construed as if it were an agreement for payment of the said fair rate.

(3) Any sum paid by a lodger in excess of the fair rate shall be recoverable by him at any time within a period of six months from the date of payment from the

manager of the hotel or the owner of the lodging house or his legal representative and may, without prejudice to any other remedy for recovery, be deducted by such lodger from any amount payable by him to such manager or owner

37. No ejectment ordinarily to be made if fair rate paid.—No manager of a hotel or owner of a lodging house shall evict or refuse board or other service to a lodger so long as he pays or is ready and willing to pay, the fair rate and observes and performs the other conditions of his agreement in so far as they are consistent with the provisions of this Act

Provided that where under section 23 or section 34 the Controller has fixed or revised the percentage of accommodation for daily and monthly lodgers respectively, the manager of a hotel or owner of a lodging house may refuse accommodation to any daily or monthly lodger as the case may be, if the accommodation in respect of such class of lodger is fully occupied

38 When manager of a hotel or owner of a lodging house may recover possession.—Notwithstanding anything contained in this Act, a manager of a hotel or owner of a lodging house shall be entitled to recover possession of the accommodation provided by him on obtaining a certificate from the Controller certifying that—

- (a) the lodger has been guilty of conduct which is a nuisance or an annoyance to any adjoining or neighbouring lodger,
- (b) the accommodation is reasonably and *bona fide* required by the owner of the hotel or lodging house, as the case may be, either for his own occupation or for the occupation of any person for whose benefit the accommodation is held or for any other cause which may be deemed satisfactory by the Controller, or
- (c) the lodger has failed to vacate the accommodation on the termination of the period of the agreement in respect thereof

Provided that before issuing a certificate under this clause the Controller take into consideration the vacancies if any, in the accommodation for daily and monthly lodgers the percentage of which has been fixed or revised under section 23 or section 34 and the circumstance under which the lodger did not vacate on the termination of the period of the agreement

39. Penalties—(1) If a manager of a hotel or owner of a lodging house either himself or through any person acting or purporting to act on his behalf or any person acting or purporting to act on behalf of a manager of a hotel or owner of a lodging house receive any fine premium or other sum or deposit or any consideration other than the fair rate in respect of the grant or continuance of accommodation in the hotel or lodging house such manager or owner or person shall on conviction be punishable with fine which may extend to six months and shall also be liable to pay a fine which shall not be less than the amount of the fine premium or sum or deposit or the value of the consideration received by him

(2) Any manager of a hotel or owner of a lodging house who charges any amount in excess of the fair rate in contravention of section 36 shall, on conviction, be punishable with imprisonment which may extend to three months, or with fine, or with both

(3) Any manager of a hotel or owner of a lodging house who accommodates lodgers or permits lodgers to be accommodated in a room or specified accommodation in excess of the number fixed by the Controller shall, on conviction be punishable with fine which may extend to one thousand rupees

(4) Any manager of a hotel or owner of a lodging house who fails to display a notice in contravention of the Controller's direction under section 35 shall, on conviction, be punishable with fine which may extend to five hundred rupees

Explanation—For the purposes of sub-section (1), receipt or charged in advance for more than one month shall be deemed to be a fine or premium or consideration

40. Provisions relating to inquiries by Controller—(1) No order under this Act shall be made by the Controller except after holding an inquiry

(2) Every such inquiry shall be made summarily in the prescribed manner

(3) For the purposes of holding an inquiry under sub-section (1) the Controller shall have the same powers as are vested in Civil Courts in respect of—

- (a) proof of facts by affidavits,
- (b) summoning and enforcing the attendance of any person and examining him on oath,

(c) compelling the production of documents, and

(d) issuing commissions for the examination of witnesses.

(4) The Controller may himself enter or authorise any person subordinate to him to enter upon any premises, hotel or lodging house or any part thereof to which the inquiry relates.

41. Appeal.—An appeal shall lie to the Chief Commissioner from an order passed by the Controller under the provisions of this Part (including an order granting or refusing a certificate under section 39) within fifteen days from the date of Communication of the order and the Chief Commissioner may pass such order as he deems fit.

42. Procedure of Courts in suits.—(1) The provisions contained in sections 28, 29, 30 and 31 shall, subject to the provisions of sub-section (2), apply to suits by a manager of a hotel or an owner of a lodging house against a lodger for recovery of charges for, or possession of, the accommodation provided in the hotel or lodging house.

(2) Pending the final decision of the suit for recovery of charges for the accommodation provided in a hotel or lodging house, the manager of the hotel or the owner of the lodging house may make an application to the court requiring the lodger to deposit in Court the amount of such charges. On such application, the Court shall forthwith make an order directing the lodger to deposit in Court such amount of charges within such period as it thinks fit and shall serve a copy of such order upon the manager of the hotel or the owner of the lodging house. If the lodger fails to deposit such amount within the period specified in the order the Court may at time thereafter pass an order for the eviction of the lodger.

43. Controller to be deemed public servant.—A Controller appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

44. All proceedings before a Controller to be judicial proceedings.—All proceedings before a Controller shall be deemed to be judicial proceedings for the purposes of sections 193 and 228 of the Indian Penal Code (XLV of 1860).

45. Protection of action taken under this Act.—No suit, prosecution or other legal proceedings shall lie against a Controller in respect of anything in good faith done or intended to be done under this Act.

PART IV

MISCELLANEOUS

46. Certain offences to be cognizable.—(1) Offences under sections 16, 17, 17A, 17C, 18, 19, sub-section (4) of section 24, section 25 and sub-sections (1) and (2) of section 40 shall be cognizable and shall not be triable by any Court inferior to that of a Magistrate of the First Class.

(2) Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, (V of 1898) it shall be lawful for a magistrate trying offences under this Act to pass sentences of fine or to award any punishment under this Act in excess of his powers.

47. Offence by companies, etc.—Where a person committing an offence under this Act is a company, or other body corporate, or an association of persons (whether incorporated or not), or a firm, every director, manager, secretary, agent or other officer or person concerned with the management thereof, and every partner of the firm shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

48. Rules.—(1) The Chief Commissioner may, by Notification in the Official Gazette and subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for—

(i) the form and the manner in which a receipt is to be given under sub-section (1) of section 26;

(ii) the manner in which rent recoverable according to any calendar other than the British calendar before the coming into operation of this Act shall be calculated and charged in terms of the British calendar under sub-section (2) of section 27;

- (iii) the procedure to be followed in trying or hearing suits, proceedings (including proceedings for execution of decrees and distress warrants), applications, appeals and execution of orders;
- (iv) the manner in which inquiries shall be made summarily under subsection (2) of section 40,
- (v) levy of court fees in suits, proceedings and applications instituted before a Court or Controller.

SCHEDULE

- (1) Bhuj Taluka.
 - (a) Bhuj Municipal Borough.
- (2) Mandvi Taluka.
 - (a) Mandvi Municipal Borough.
- (3) Mundra Taluka.
 - (a) Mundra Municipal Borough.
- (4) Anjar Taluka.
 - (a) Anjar Municipal Borough.
- (5) Abadasa Taluka.
 - (a) Town of Naliya.
- (6) Rapar Taluka.
 - (a) Rapar Municipal Borough.
- (7) Bhachau Taluka.
 - (a) Bhachau Municipal Borough.
- (8) Nakhatrana Taluka.
 - (a) Town of Nakhatrana.

[No. 215-J.]

A. N. SACHDEV, Under Secy.

New Delhi, the 18th September, 1951

S.R.O. 1476.—The Central Government is pleased to notify that Maharajkumar Bhawani Singhji and Maharajkumar Jai Singhji, sons of His Highness the Maharaja of Jaipur, have been nominated by the said Ruler, for the purposes of Entry 2(b) of the Table annexed to Schedule I to the Indian Arms Rules, 1951.

[No. 202-D.]

S.R.O. 1477.—The Central Government is pleased to notify that Colonel Maharajkumar Shri Bhagwat Singhji, son of His Highness the Maharana of Udaipur has been nominated by the said Ruler, for the purposes of Entry 2(b) of the Table annexed to Schedule I to the Indian Arms Rules, 1951.

[No. 203-D.]

S.R.O. 1478.—The Central Government is pleased to notify that Maharajkumar Mahipal Singhji Bahadur and Maharajkumar Shri Raj Singhji, sons of His Highness the Maharawal of Dungarpur, have been nominated by the said Ruler, for the purposes of Entry 2(b) of the Table annexed to Schedule I to the Indian Arms Rules, 1951.

[No. 204-D.]

S.R.O. 1479.—The Central Government is pleased to notify that Maharajkumar Brij Raj Singhji Sahib son of His Highness the Maharao of Kotah has been nominated by the said Ruler, for the purposes of Entry 2(b) of the Table annexed to Schedule I to the Indian Arms Rules, 1951.

[No. 205-D.]

S.R.O. 1480.—The Central Government is pleased to notify that Maharajkumar Indrajot Deoji, son of the Raja of Shahuwara, has been nominated by the said Ruler, for the purposes of Entry 2(b) of the Table annexed to Schedule I to the Indian Arms Rules, 1951.

[No. 206-D.]

S.R.O. 1481.—The Central Government is pleased to notify that Maharajkumar Brijendra Pal and Maharajkumar Surendra Pal sons of His Highness the Maharaja of Karaul have been nominated by the said Ruler for the purposes of Entry 2(b) of the Table annexed to Schedule I to the Indian Arms Rules, 1951.

[No. 207-D.]

S.R.O. 1482.—The Central Government is pleased to notify that Maharajkumar Shri Virendra Singh son of His Highness the Maharaj-Rana of Jhalawar has been nominated by the said Ruler, for the purposes of Entry 2(b) of the Table annexed to Schedule I to the Indian Arms Rules, 1951.

[No. 208-D.]

S.R.O. 1483.—In exercise of the powers conferred by Entry 3(b) of the Table annexed to Schedule I to the Indian Arms Rules, 1951, the Central Government is pleased to specify—

- (1) Maharaj Shri Ajit Singhji,
- (2) Maharaj Sri Guman Singhji,
- (3) Maharaj Sri Gahn Singhji,
- (4) Maharaj Sri Amar Singhji, and
- (5) Maharaj Prem Singh

members of the family of the Ruler of Jodhpur for the purposes of that entry.

[No. 209-D.]

S.R.O. 1484.—In exercise of the powers conferred by Entry 3(b) of the Table annexed to Schedule I to the Indian Arms Rules, 1951, the Central Government is pleased to specify—

- (1) Lt. Maharajkumar Shri Amarsinghji Bahadur,
- (2) Maharaj Shri Bhairun Singhji Bahadur,
- (3) Maharaj Shri Mandhatta Singhji of Sallana,
- (4) Maharaj Shri Ajat Shatru Singhji of Sallana,
- (5) Maharaj Shri Tej Singhji, and
- (6) Lt.-Col. Maharaj Shri Narain Singhji

members of the family of the Ruler of Bikaner for the purposes of that entry.

[No. 210-D.]

S.R.O. 1485.—In exercise of the powers conferred by Entry 3(b) of the Table annexed to Schedule I to the Indian Arms Rules, 1951, the Central Government is pleased to specify Maharaj Shri Hukamsinghji Sahib a member of the family of the Ruler of Jaisalmer for the purposes of that entry.

[No. 211-D.]

S.R.O. 1486.—In exercise of the powers conferred by Entry 3(b) of the Table annexed to Schedule I to the Indian Arms Rules, 1951, the Central Government is pleased to specify—

- (1) Maharaj Lal Singh, Jagirdar of Piploda,
- (2) Maharaj Chattra Singh, Jagirdar of Gori Tejpur,
- (3) Maharaj Kishore Singh, Jagirdar of Daulatpura, and
- (4) Maharaj Shankar Singh

members of the family of the Ruler of Banswara for the purposes of that entry.

[No. 212-D.]

S.R.O. 1487.—In exercise of the powers conferred by Entry 3(b) of the Table annexed to Schedule I to the Indian Arms Rules, 1951, the Central Government is pleased to specify Rajadhlraj Shri Umadsinghji Sahib a member of the family of the Ruler of Shahpura for the purposes of that entry.

[No. 213-D.]

New Delhi, the 19th September, 1951

S.R.O. 1488.—In exercise of the powers conferred by proviso (d) to sub-rule (1) of rule 3 of the Indian Arms Rules, 1951, the Central Government hereby directs that the exemption conferred on (1) Raja Bahadur Major Narendra Singh and (2) Maharajkumar Pushpendra Singh, sons of His Highness the Maharaja of Panna, under the Notification of the Government of India in the Ministry of States, No. S.R.O. 940, dated 16th November, 1950, shall cease to extend to the aforesaid persons.

[No. 216-D.]

H. C. MAHINDROO, Under Secy.

MINISTRY OF FINANCE

CHARTERED ACCOUNTANTS

New Delhi, the 26th September, 1951

S.R.O. 1489.—*Corrigendum.*—On page 1426 of the Gazette of India (Part II Section 3), dated the 15th September, 1951, in line 4 of the Ministry of Finance Notification No. S.R.O. 1381, dated the 5th September, 1951 for the words "in the office of the Accountant General, Food Relief and Supply", please read "in the office of the Comptroller and Auditor General of India".

[No. 65(5)-ICL(A)/51.]

B. K. KAUL, Dy. Secy.

MINISTRY OF FINANCE (REVENUE DIVISION)

INCOME-TAX

New Delhi, the 19th September 1951

S.R.O. 1490.—In exercise of the powers conferred by section 60A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby directs that the following further amendment shall be made in the Part B States (Taxation Concessions) Order, 1950, published with the notification of the Government of India in the Ministry of Finance (Revenue and Expenditure Department) No. S.R.O. 998, dated the 2nd December 1950, namely:—

The proviso to clause (i) of paragraph 15 of the said Order shall be omitted and shall be deemed to have always been so omitted

[No. 96.]

S.R.O. 1491.—In exercise of the powers conferred by section 60A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby directs that the following further amendment shall be made in the Merged States (Taxation Concessions) Order, 1949 published with the notification of the Government of India in the Ministry of Finance (Revenue Division) No. 22(40)-I.T/49, dated the 3rd December 1949, namely:—

The proviso to clause (ii) of paragraph 13 of the said Order shall be omitted and it shall be deemed to have always been so omitted.

[No. 97.]

New Delhi, the 20th September 1951

S.R.O. 1492.—In exercise of the powers conferred by section 60A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby directs that the following amendment shall be made in the Merged States (Taxation Concessions) Order, 1949, namely:—

After clause (iii) of paragraph 13 of the said order, the following clause shall be added, namely:—

"(iv) the profits of any Co-operative Society registered under any Act in force in a Merged State, or dividends or other payments received by members of any such society out of such profits.

For this purpose, the profit of Co-operative Society shall not be deemed to include any income, profits or gains from—

- (1) investments in (a) securities of the nature referred to in section 8 of the Indian Income-tax Act, or (b) property of the nature referred to in section 9 of that Act,
- (2) dividends, or
- (3) the other sources referred to in section 12 of the Indian Income-tax Act,"

[No. 98.]

S. P. LAHIRI, Dy. Secy.

CENTRAL BOARD OF REVENUE**INCOME-TAX***New Delhi, the 20th September 1951*

S.R.O. 1493.—In pursuance of sub-section (4) of section 5 of the Indian Income-tax Act, 1922 (XI of 1922) and in partial modification of its notification No. 32-Income-tax, dated the 9th November 1946, the Central Board of Revenue directs that Mr K. S. Sundara Rajan, the Additional Appellate Assistant Commissioner of Income-tax, Bombay, shall and the Appellate Assistant Commissioners of Income-tax specified in column 2 of the schedule below, shall not, perform their functions in respect of the persons specified in column 1 of the schedule hereto annexed for the appeals mentioned in the corresponding entry in column 3 thereof:—

SCHEDULE

| S. No. | Name and address of the assessee | Appellate Assistant Commissioner of Income-tax, Bombay | Appeal No. and year of assessment |
|--------|--|--|-----------------------------------|
| 1 | 2 | 3 | 4 |
| 1. | The Oriental Industrial Investment Corporation Ltd., Dalal St., Bombay. | B-Range | BAP. 2153—1949-50 |
| 2. | The Binod Mills Co. Ltd., Ujjain | Do. | BAP. 1971—1944-45 |
| 3. | Bourjois (E. stern) Ltd., as agents to Lees Perfumes Chanel, S. A. of Paris, Kaiser-I-Hind Bldg., Currinbhoy Road, Bombay. | Do. | BAP. 265—1948-49 |
| 4. | M/s. Bradbury Mills Ltd., Imperial Bank Bldg, Bank St., Bombay. | Do. | BAP. 1961—1948-49 |
| 5. | M/s. Suresh & Co., Champa Galli, Bombay | C-Range | CAP. 625—1947-48 |
| 6. | M/s. Mahomed Hussein Alimahomed, Prop. Mr. Alimahomed Ebrahim, 314 E. R. Road, Bombay. | Do. | CAP. 1806—1949-50 |
| 7. | The Bombay Safe Mfg. Co., Prop. Mrs. Kashiben Jasinghbhai, 307 Kalbadevi Road, Bombay. | Do. | CAP. 1608—1949-50 |
| 8. | Mr. Dhondu Laxman Ghorde, Killedar Estate, Jacob Circle, Bombay. | Do. | CAP. 1751—1949-50 |
| 9. | M/s. D. Ram & Co., Prop. Mr. Dayaram Sadhumal, Krishna Nivas, Kalbadevi Road, Bombay. | Do. | CAP. 217—1949-50 |
| 10. | M/s. Bhatt Oza & Co., Alexandra Terrace, Victoria Gardens, Bombay. | Do. | CAP. 22—1949-50 |
| 11. | M/s. Bhabutmal Ammchand & Co., Noorbhai Bldg., Parel Road, Bombay. | Do. | CAP. 5—1949—50 |
| 12. | M/s. Shantilal & Co., Prop. S. H. Parikh, 185, Chakla Street, Bombay. | D-Range | DAP. 1168—1949-50 |
| 13. | M/s. Nathubhai Ramji & Co., Garibdas Street, Bombay. | Do. | DAP. 981—1950-51 |
| 14. | Mr. Rajabhai Malobhai, 140 Chakla Street, Bombay. | Do. | DAP. 920—1950-51 |
| 15. | Mr. Liladhar Lakhamsey Shah, Chinchbunder Road, Bombay. | Do. | DAP. 952—1947-48 |
| 16. | M/s. Shantilal Ramanlal & Co., 35, Kaji Syed Street, Bombay. | Do. | DAP. 8—1947-48 |
| 17. | M/s. Raghavji Kanji & Co., 116, New Chinch Bunder Road, Bombay. | Do. | DAP. 692—1949-50 |
| 18. | M/s. Raval & Co., Tank Bunder Road Bombay | H-Range | HAP. 1016—1949-50 |
| 19. | Shri Chandrakant Panachand, 97, Walkeshwar Road, Bombay. | Do. | HAP. 1190—1946-47 |
| 20. | Mrs. Jayalaxmi M. Pandya, 101, Walkeshwar Road, Bombay. | Do. | HAP. 173—1946-47 |
| 21. | Sri Krip Goribhai Bhatnagar, 14, French Bridge, Bombay. | Do. | HAP. 1172—1946-47 |

| 1 | 2 | 3 | 4 |
|-----|--|--------|--------------------|
| 22. | Shri Kanji Gordhandas Buddhadov, 14, French Bridge, Bombay. | H-Rang | HAP. 1171—1946-47* |
| 23. | Jainarayan G. Gupta, Prop. Motor Re-powering Service, 62, Girgaum Road, Bombay. | Do. | HAP. 1221—1946-47 |
| 24. | Shri Meghji Pasoo Shah, c/o Deoji Dharsey & Sons, Tarabag Estate, Charni Road, Bombay. | Do. | HAP. 1004—1946-47 |
| 25. | Ditto. | Do. | HAP. 1005—1947-48 |

[No. 99.]

New Delhi, the 21st September, 1951

S.R.O. 1494.—In pursuance of sub-section (4) of section 5 of the Indian Income-tax Act, 1922 (XI of 1922) and in partial modification of its notification No. 32—Income-tax, dated the 9th November 1946, the Central Board of Revenue directs that the Appellate Assistant Commissioner of Income-tax, 'B' Range, Madras shall also and the Appellate Assistant Commissioner of Income-tax, Coimbatore, shall not perform his functions in respect of the persons specified in column 2 of the schedule hereto annexed for the appeals mentioned in the corresponding entry in column 3 thereof:—

SCHEDULE

| S. No. | Name and address of the assessee | Appeal No. and Assessment year |
|--------|--|-----------------------------------|
| 1 | 2 | 3 |
| 1. | Shri B. Ramanatha Kamath, Merchant, Calicut. | I.T.A. No. 1129/40-50 for 1945-46 |
| 2. | Ditto. | I.T.A. No. 1430/49-50 for 1944-45 |

[No. 100.]

S.R.O. 1495.—In pursuance of sub-section (4) of section 5 of the Indian Income-tax Act, 1922 (XI of 1922) and in partial modification of its notification No. 32—Income-tax, dated the 9th November, 1946, the Central Board of Revenue directs that the Appellate Assistant Commissioner of Income-tax, Ranchi shall also and the Appellate Assistant Commissioner of Income-tax, Cuttack, shall not perform his functions in respect of Messrs. Dipchand Phulchand of Chandball, District Balasore for their Income-tax appeal No. 33 of 1948-49.

[No. 101.]

S.R.O. 1496.—In pursuance of sub-section (4) of section 5 of the Indian Income-tax Act, 1922 (XI of 1922) and in partial modification of its notification No. 32—Income-tax, dated the 9th November, 1946, the Central Board of Revenue directs that the Appellate Assistant Commissioner of Income-tax, Vijayawada, Range shall also and the Appellate Assistant Commissioner of Income-tax, 'B' Range, Madras shall not perform his functions in respect of the persons specified in column 2 of the Schedule hereto annexed for the appeals mentioned in the corresponding entry in column 3 thereof:—

SCHEDULE

| S. No. | Name and address of the assessee | Appeal No. and Assessment year |
|--------|--|--------------------------------|
| 1 | 2 | 3 |
| 1. | Varada Kameswara Rao Naidu, Pondi | 998/49-50 for 1947-48. |
| 2. | Trimalapalle Krishnamurthy, Tanku | 1002/49-50 for 1941-42. |
| 3. | Ditto. | 1001/49-50 for 1940-41. |
| 4. | Ditto. | 1003/49-50 for 1942-43. |
| 5. | M. A. Sanyasalingam, Visianagarani | 993/49-50 for 1943-44. |
| 6. | Parabhat Pan & Co., Vijayawada | 1004/49-50 for 1946-47. |
| 7. | Purvada Venkatesubbiah Oil Mill, Ongole. | 1006/49-50 for 1944-45. |

| 1 | 2 | 3 |
|-----|---|------------------------|
| 8. | Karlalalem Subbaramiah & Others, Ongole | 999/49-50 for 1945-46. |
| 9. | Gaita Bipanaya, Karmachedu | 997/49-50 for 1944-45 |
| 10. | Ditto. | 998/46-50 for 1945-46 |
| 11. | Kolipalle Ramanujiah & Lakshmi Narasimha'u, Ongole | 995/49-50 for 1943-44. |
| 12. | V. Ramamurthi & A. Venkiah, Amaldavalasa | 994/49-50 for 1943-44. |

[No. 102.]

New Delhi, the 22nd September, 1951

S.R.O. 1497.—In pursuance of sub-section (4) of section 5 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Board of Revenue directs that the following further amendment shall be made in the Schedule appended to its notification No. 32-Income-tax, dated the 9th November, 1946, namely:—

In the Schedule appended to the said Notification, under the sub-head 'IV—Uttar Pradesh and Vindhya Pradesh', for the Ranges, Income-tax Circles and Wards the following Ranges, Income-tax Circles and Wards shall be substituted, namely:—

Agra —

1. Agra.
2. Mathura.
3. Fatehgarh.
4. Special Survey Circle, Meerut (in respect of persons who have **their** principal place of business in or reside in the jurisdiction of **the** Income-tax Circle, Agra).

Banaras—

1. Banaras.
2. Azamgarh.
3. Gorakhpur.
4. Mirzapur.
5. Vindhya Pradesh.

Kanpur—

1. Kanpur.
2. Jhansi.
3. Companies Circle, Kanpur.
4. Excess Profits Tax Circle, Kanpur.
5. Special Survey Circle, Kanpur.

Lucknow—

1. Bareilly.
2. Faizabad.
3. Gonda.
4. Lucknow.
5. Sitapur.
6. Shahjahanpur.
7. Central Circle, Allahabad.
8. Allahabad.
9. Special Survey Circle, Lucknow.

Meerut—

1. Meerut.
2. Muzaffarnagar.
3. Military Circle, Meerut.
4. Aligarh.

5. Rampur.
6. Moradabad.
7. Special Survey Circle, Meerut (In respect of persons who have their principle place of business in or reside in the jurisdiction of the Income tax Circle, Meerut).

Dehradun—

1. Saharanpur.
2. Dehra Dun.

[No. 103.]

S. P. LAHIRI, Secy.

MINISTRY OF COMMERCE AND INDUSTRY

New Delhi, the 17th September, 1951

S.R.O. 1498.—Corrigendum.—In the Schedule to the notification of the Government of India, in the Ministry of Commerce and Industry No. S.R.O. 1180, dated the 1st August 1951, published in Part II, Section 3 of the *Gazette of India, Weekly*, dated the 4th August 1951 on page 1134 for sub-paragraph read the following:—

"In the schedule to the said notification, for the entries relating to Horlicks, the following entries shall be substituted, namely:—

1. Horlicks 1 lb.—Rs. 3-10-0 per bottle.
2. Horlicks $\frac{1}{2}$ lb.—Rs. 2-0-0 per bottle.
- 2(A) Horlicks 5 lbs.—Rs 16-13-0 per bottle."

[No. PC-4(1)/50]

P. S. SUNDARAM, Under Secy

New Delhi, the 26th September, 1951

S.R.O. 1499.—In exercise of the powers conferred by sub-clause (a) of Clause 2 of the Iron and Steel (Control of Production and Distribution) Order, 1941, the Central Government is pleased to direct that the following amendment shall be made in the Notification of the Government of India in the Ministry of Industry and Supply, No. I(1)-4(41), dated the 7th September 1950, as amended from time to time, namely:—

To the Schedule annexed to the said Notification, the following entry shall be added, namely:—

"Subas of Dhar, Dewas, Mandsaur and Shajapur Districts of the State of Madhya Bharat".

[No. SC(A)-4(76).]

S.R.O. 1500.—In exercise of the powers conferred by sub-clause (a) of Clause 2 of the Iron and Steel (Control of Production and Distribution) Order, 1941, the Central Government is pleased to authorise the Director of Civil Supplies, Government of Madhya Bharat, to exercise the powers of the Controller under Clause 11D of the said Order within the State of Madhya Bharat.

[No. SC(A)-4(76)A.]

S.R.O. 1501.—In exercise of the powers conferred by sub-clause (b) of Clause 2 of the Iron and Steel (Scrap Control) Order, 1943, the Central Government is pleased to authorise the Director of Civil Supplies, Government of Madhya Bharat, to exercise the powers of the Controller under Clause 5C of the said Order within the State of Madhya Bharat

[No. SC(A)-4(76)B.]

S.R.O. 1502.—In exercise of the powers conferred by sub-clause (b) of Clause 2 of the Iron and Steel (Scrap Control) Order, 1943 the Central Government is pleased to direct that the following amendment shall be made in the Notification

of the Government of India in the Ministry of Industry and Supply, No. I(1)-4(78)C, dated the 6th January 1951, as amended from time to time, namely:—

In the Schedule annexed to the said Notification, the following entry shall be added, namely.

“Director of Civil Supplies, Government of Madhya Bharat, Indore”.

[No. SC(A)-4(76)C.]

N. R. REDDY, Under Secy.

CENTRAL TEA BOARD

New Delhi, the 26th September, 1951

S.R.O. 1503.—In exercise of the powers conferred by clause (V) of Sub-section (3) read with sub-section (5) of section 4 of the Central Tea Board Act, 1949 (XIII of 1949), the Central Government hereby nominates Mr. K. R. P. Aiyangar, Joint Secretary to the Government of India in the Ministry of Finance, as a member of the Central Tea Board *vice* Mr. A. K. Roy, resigned.

[No. 306(2)(Tea)/51 (Plant).]

M. R. A. BAIG, Dy. Secy.

New Delhi, the 29th September, 1951

S.R.O. 1504.—In exercise of the powers conferred by section 4 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), the Central Government hereby directs that the powers conferred on it by sub-section (1) of section 3 of the said Act to provide for the matters specified in clauses (c), (d), (e), (f), (g), (h), (i) and (j) of sub-section (2) thereof shall, in relation to cotton textiles, be exercisable also by the Chief Commissioner of each of the States of Delhi, Ajmer, Coorg and the territory of the Andaman and Nicobar Islands, subject to the condition that no order made by such Chief Commissioner in the exercise of the aforesaid powers shall have effect in so far as it is repugnant to any order made under the said sub-section (1) by the Central Government.

[No. 16(17)-CT(A)/51.]

S. K. DATTA, Dy. Secy.

MINISTRY OF FOOD AND AGRICULTURE

New Delhi, the 29th September, 1951

S.R.O. 1505.—In exercise of the powers conferred by clause 2(a) of Vegetable Oil Products Control Order, 1947, as subsequently amended *vide* Ministry of Agriculture Notification No. 2-VP(2)/48, dated the 9th October 1948, the Vegetable Oil Products Controller for India is hereby pleased to confer upon the Assistant Director of Agricultural Marketing, West Bengal, the powers of the Controller under clause 8-A of the said order.

[No. 2-VP(2)/51]

P. A. GOPALAKRISHNAN,

Vegetable Oil Products Controller for India.

MINISTRY OF EDUCATION

ARCHAEOLOGY

New Delhi, the 20th September, 1951

S.R.O. 1506.—*Corrigendum.*—In the Government of India, Ministry of Education, notification No. F.4-13/50-A.2., dated the 8th August, 1951, relating to the protection of ancient sites at Amarapura and Baroda Kasba in the Baroda territory, Bombay, for the words “declaring the ancient sites at Amarapura State, Baroda Kasba in the Baroda territory,” please read “declaring the ancient sites at Amarapura and Baroda Kasba in the Baroda territory”

[No. F.4-13/50-A.2.]

S.R.O. 1507.—Corrigendum.—In the Schedule to the Government of India, Ministry of Education notification No. D.4523/51-A.2., dated the 11th August 1951, pertaining to protection of ancient site at Karvan, District Baroda, please substitute as under:—

| Column | For | Read |
|----------|--------------------------|---------|
| 2 | Mohsana | Barod : |
| 6 line 3 | 3/4 | 4/4 |
| 8 line 3 | 3032/5; 3033; 3061; 3354 | |
| | 5, 8, 9, 10 11 12 | |
| | 3032/5; 3063; 3064; 3354 | |
| | 5, 8, 9, 10, 11, 12 | |

[No. D.4523/51-A.2]

BINA CHATTERJEE, Under Secy.

MINISTRY OF TRANSPORT

PORTS

New Delhi, the 20th September 1951

S.R.O. 1508.—In pursuance of sub-section (2) of section 6 of the Calcutta Port Act, 1890 (Bengal Act III of 1890), the name of the following person who has been re-elected as a Commissioner of the Port of Calcutta is hereby published for general information:—

Shri P. Mukherjee—Re-elected by the Bengal National Chamber of Commerce.

[No. 9-P.I(103)/51]

T. S. PARASURAMAN, Dy. Secy.

MERCHANT SHIPPING

New Delhi, the 25th September, 1951

S.R.O. 1509.—The following draft of certain further amendments to the Indian Merchant Shipping (Life Saving Appliances) Rules, 1934, which it is proposed to make in exercise of the powers conferred by sub-sections (1) and (2) of section 145A, sub-section (1) of section 191 and sub-section (1) of section 216A of the Indian Merchant Shipping Act 1923 (XXI of 1923), is published as required by sub-section (1) of section 145A, sub-section (3) of section 191 and sub-section (1) of section 216A of the said Act for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration on or after the 1st November 1951.

Any objection or suggestion which may be received from any person in respect of the said draft before the date specified will be considered by the Central Government.

Draft Amendments

For sub-rule (5) of rule 31 of the said Rules, the following shall be substituted, namely:—

- (5) "(i) In the case of ships of Classes VIII, IX, XIII as also ships of Class XIV when engaged on voyages between ports situated in India or between any port in India and any port or place on the continent of India or in the Island of Ceylon, the boats shall not be required to carry the equipment specified in clauses (h), (j) and (m) of sub-rule (1) of this rule.
- (ii) In the case of ships of Class X when engaged on voyages between ports situated in India or between any port in India and any port or place on the continent of India or in the Island of Ceylon, the boats shall not be required to carry the equipment specified in clauses (j) and (m) of sub-rule (1) of this rule.
- (iii) In the case of ships of Class XIII as also ships of Classes X and XIV when engaged on voyages between ports situated in India or between any port in India and any port or place on the continent of India or in the Island of Ceylon, the Central Government may allow the equipments specified in clauses (e), (f), (k), (l) and (n) of sub-rule (1) of this rule also to be dispensed with."

[No. 51-MA(3)/51]

H. C. SARIN, Dy. Secy.

MINISTRY OF COMMUNICATIONS

POSTS AND TELEGRAPHS

New Delhi, the 22nd September, 1951

S.R.O. 1510.—In exercise of the powers conferred by Section 16 of the Indian Post Office Act, 1898 (VI of 1898), the Central Government hereby directs that the following further amendment shall be made in the Indian Post Office Rules, 1933, namely—

For rule 193 of the said Rules the following rule shall be substituted namely:—

"193. Plain postcards (single and reply) shall be sold for the denoted value of the stamp or stamps which they bear. Special picture postcards (single only) shall be sold at one and a half annas each".

[No. H.3-1/51.]

K. V. VENKATACHALAM, Dy. Secy.

MINISTRY OF LABOUR

New Delhi, the 20th September 1951

S.R.O. 1511.—In exercise of the powers conferred by section 4 of the Mica Mines Labour Welfare Fund Act, 1946 (XXII of 1946), read with clause (b) of sub-rule (1) of rule 3 of the Mica Mines Labour Welfare Fund (Bihar and Madras) Rules, 1948, the Central Government hereby appoints Shri M. R. Huda, Mica Controller, Bihar, as Vice-Chairman of the Advisory Committee, constituted by the notification of the Government of India in the Ministry of Labour No. M.29(8)/50, dated the 11th May 1951.

[No. M.29(8)/50]

New Delhi, the 24th September, 1951

S.R.O. 1512.—In exercise of the powers conferred by sub-section (1) of section 19 of the Minimum Wages Act, 1948 (XI of 1948), the Central Government hereby appoints each of the officers mentioned in column 1 of the schedule hereto annexed, to be an Inspector for the purposes of the said Act within the local limits specified in the corresponding entry in column 2 thereof—

SCHEDULE

| Name of the Officer (1) | Local limits (2) |
|---|---|
| Chief Labour Commissioner (Central). | Whole of India except the State of Jammu and Kashmir. |
| Welfare Adviser to the Chief Labour Commissioner (Central). | Whole of India except the State of Jammu and Kashmir. |
| The Regional Labour Commissioner (Central), Ajmer. | The States of Patiala and East Punjab States Union, Ajmer, Rajasthan, Himachal Pradesh, Madhya Bharat and Bilaspur. |
| The Conciliation Officer (Central), Ajmer. | |
| The Labour Inspector (Central), Ferozepore. | |
| The Labour Inspector (Central), Ambala. | |
| The Labour Inspector (Central), Ajmer. | |
| The Labour Inspector (Central), Jodhpur. | The States of Uttar Pradesh and Delhi. |
| The Labour Inspector (Central), Bhilwara. | |
| The Labour Inspector (Central), Ratlam. | |
| The Regional Labour Commissioner (Central), Kanpur. | |
| The Conciliation Officer (Central), New Delhi | |
| The Conciliation Officer (Central), Kanpur. | |
| The Labour Inspector (Central) Allahabad. | |
| The Labour Inspector (Central), Gorakhpur. | |
| Gorakhpur. | |
| The Labour Inspector (Central), Bareilly. | |

(1)

(2)

The Labour Inspector (Central), Lucknow.
 The Labour Inspector (Central), Allahabad.
 The Labour Inspector (Central), Jhansi.
 The Labour Inspector (Central), Kanpur.
 The Labour Inspector (Central), Delhi-I.
 The Labour Inspector (Central), Delhi-II.

The States of Uttar Pradesh and
 Delhi.

The Regional Labour Commissioner,
 (Central), Madras.
 The Conciliation Officer (Central), Madras.
 The Conciliation Officer (Central), Madurai.
 The Labour Inspector (Central), Madras-I.
 The Labour Inspector (Central), Cochin.
 The Labour Inspector (Central), Bezwada.
 The Labour Inspector (Central), Vizagapa-
 patam.
 The Labour Inspector (Central), Bangalore.
 The Labour Inspector (Central), Colmbatore.
 The Labour Inspector (Central), Madras-II.
 The Labour Inspector (Central), Mysore.
 The Labour Inspector (Central), Trivandrum.

The States of Madras, Mysore,
 Travancore-Cochin and Coorg.

The Regional Labour Commissioner (Central), Calcutta.
 The Conciliation Officer (Central), Calcutta-I.
 The Conciliation Officer (Central), Calcutta-II.
 The Conciliation Officer (Central), Gauhati.
 The Labour Inspector (Central), Calcutta-I.
 The Labour Inspector (Central), Calcutta-II.
 The Labour Inspector (Central), Gauhati.
 The Labour Inspector (Central), Kharagpur.
 The Labour Inspector (Central), Dibrugarh.
 The Labour Inspector (Central), Calcutta-III.

The States of West Bengal,
 Tripura, Manipur and Assam.

The Regional Labour Commissioner (Central), Dhanbad.
 The Conciliation Officer (Central), Cuttack.
 The Conciliation Officer (Central), Dhanbad.
 The Conciliation Officer (Central), Asansol.
 The Conciliation Officer (Central), Patna.
 The Labour Inspector (Central), Asansol.
 The Labour Inspector (Central), Bermo.
 The Labour Inspector (Central), Patna-I.
 The Labour Inspector (Central), Jharia.
 The Labour Inspector (Central), Katrasgarh.
 The Labour Inspector (Central), Kodarma.
 The Labour Inspector (Central), Muzaffarpur.
 The Labour Inspector (Central), Patna-II.
 The Labour Inspector (Central), Cuttack.
 The Labour Inspector (Central), Rewa.

The States of Bihar, West Bengal
 (coal mines only), Orissa and
 Vindhya Pradesh.

The Regional Labour Commissioner (Central), Nagpur.
 The Conciliation Officer (Central), Nagpur.
 The Conciliation Officer (Central), Secunder-
 abad.
 The Labour Inspector (Central), Jubbulpore.
 The Labour Inspector (Central), Nagpur.
 The Labour Inspector (Central), Raipur.
 The Labour Inspector (Central), Secunder-
 abad.
 The Labour Inspector (Central), Kotha
 Gadum.

The States of Madhya Pradesh,
 Hyderabad and Bhopal.

(1)

(2)

The Regional Labour Commissioner (Central), Bombay.
 The Conciliation Officer (Central), Bombay.
 The Conciliation Officer (Central), Poona.
 The Conciliation Officer (Central), Rajkot.
 The Labour Inspector (Central), Bombay-I.
 The Labour Inspector (Central), Bombay-II.
 The Labour Inspector (Central), Poona.
 The Labour Inspector (Central), Ahmedabad.
 The Labour Inspector (Central), Bhusawal.
 The Labour Inspector (Central), Hubli.
 The Labour Inspector (Central), Rajkot.
 The Labour Inspector (Central), Bombay-III.

The States of Bombay, Saurashtra and Kutch

[No. LWI-24(60).]

New Delhi, the 25th September, 1951

S.R.O. 1513.—In exercise of the powers conferred by the proviso to sub-section (1) of section 3 of the Coal Mines Labour Welfare Fund Act, 1947 (XXXII of 1947), and in supersession of the notification of the Government of India in the Ministry of Labour, No. LW.1(4)/47(2), dated the 28th February, 1950, the Central Government hereby directs that the following amendment shall be made in the notification of the Government of India in the Ministry of Labour, No. LW.1(4)/47(2), dated the 14th June 1947, namely:—

The word "and" at the end of sub-paragraph (i) of the said notification and the whole of sub-paragraph (ii) thereof shall be omitted.

[No. M.41(21)/51.]

New Delhi, the 26th September, 1951

S.R.O. 1514.—The following draft of certain proposals relating to minimum rates of wages payable to the classes of casual labour specified in the Schedule annexed hereto and employed under the authority of the Coal Mines Welfare Commissioner, Dhanbad, which it is proposed to fix in pursuance of clause (a) of sub-section (1) of section 3 read with clause (i) of sub-section (1) of section 4 of the Minimum Wages Act, 1948 (XI of 1948) are published as required by sub-clause (b) of sub-section (1) of section 5 of the said Act, for the information of persons likely to be affected thereby, and notice is hereby given that the draft will be taken into consideration on or after the 8th December 1951.

2. Any objection or suggestion which may be received from any person with respect to the draft before the said date will be considered by the Central Government.

SCHEDULE

| Serial Number | Category of Employees | Minimum rate of wages per d. y. |
|---------------|-----------------------|---------------------------------|
| | | Rs. |
| 1. | Mazdoor | 1/8/- |
| 2. | Kamin (Female worker) | 1/4/- |
| 3. | Bhist | 2/8/- |
| 4. | Blacksmith | |
| | (a) First class | 5/-/- |
| | (b) Second class | 4/-/- |
| 5. | Carpenter | |
| | (a) First class | 5/-/- |
| | (b) Second class | 4/-/- |
| 6. | Fitter or plumber | 5/-/- |
| 7. | Assistant Fitter | 3/8/- |
| 8. | Painter | 4/-/- |

NOTE.—Cost of Living Allowance is included in the daily rates.

[No. LWI-24(74).]

S.R.O. 1515.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 3 read with clause (i) of sub-section (1) of section 4 of the Minimum Wages Act, 1948 (XI of 1948), the Central Government hereby fixes the minimum rates of wages payable to the classes of employees specified in the Schedule annexed hereto and employed in tanneries and leather manufacture, road construction and in building operations and in stone breaking or stone crushing carried on by or under the authority of the Ministry of Defence, the same having been previously published as required by clause (b) of sub-section (1) of section 5 of the said Act. These rates shall take effect from the date of the publication of this notification.

SCHEDULE

| Serial No. | Category of employees | Minimum monthly basic rate of wages |
|---|-----------------------|-------------------------------------|
| | | Rs. |
| <i>Tanneries and Leather Manufacture</i> | | |
| 1. Mistry | ... | 46 |
| 2. Ganger | ... | 40 |
| 3. Currler | ... | 32 |
| 4. Labourer | ... | 30 |
| 5. Bate Yard Worker | ... | 30 |
| 6. Fitter (General) | ... | 35 |
| 7. Leach Louse Worker | ... | 35 |
| 8. Lime Yard Flesher | ... | 40 |
| 9. Lime Yard Unhairer | ... | 35 |
| 10. Lime Yard Worker | ... | 30 |
| 11. Stoker | ... | 36 |
| 12. Sweeper | ... | 30 |
| 13. Pump Attendant | ... | 36 |
| 14. Tan Yard Worker | ... | 32 |
| 15. Counter | ... | 32 |
| 16. Lower Division Clerk | ... | 55 |
| 17. Checker—Grade I | ... | 55 |
| Grade II | ... | 40 |
| <i>Road Construction and Building Operations and Stone Breaking or Stone Crushing</i> | | |
| 1. Driver (Road Roller I.C. and Cement Mixer, etc.) | ... | 40 |
| 2. Driver Engine Static | ... | 40 |
| 3. Fitter | ... | 40 |
| 4. Blacksmith | ... | 40 |
| 5. Carpenter | ... | 40 |
| 6. Bricklayer | ... | 40 |
| 7. Mason | ... | 40 |
| 8. Painter (Polisher) | ... | 40 |
| 9. Pipe Fitter | ... | 40 |
| 10. Wireman | ... | 40 |
| 11. Sawyer | ... | 40 |
| 12. Mate | ... | 35 |
| 13. Hammerman | ... | 35 |
| 14. Operator Pneumatic Tools | ... | 35 |
| 15. Bhisti | ... | 30 |
| 16. Mazdoor | ... | 30 |

NOTE.—The Cost of Living Allowance will be admissible at the following rates adjusted at such intervals and in such manner as the Central Government may direct:—

Up to Rs. 50
Rs. 51—100

Rs. 40 Cost of Living Allowance.
Rs. 50 Cost of Living Allowance.

[No. LWI-24(74).]

CORRIGENDUM*New Delhi, the 25th September, 1951*

S.R.O. 1516.—In the notification of the Government of India in the Ministry of Labour No. S.R.O. 345, dated the 7th March 1951, printed on pages 201-216 of the *Gazette of India Extraordinary* in Part II, Section 3, dated the 12th March 1951.

- (1) for the figures '41' occurring in the third column against Serial No. 321 on page 212, read the figures '44';
- (2) for the figures '32' occurring in the third column against Serial No. 327 on page 213, read the figures '34';
- (3) for the figures '49' occurring in the third column against Serial No. 332 on page 213, read the figures '46'.

[No. LWI.24(33).]

P. N. SHARMA, Under Secy.

New Delhi, the 24th September, 1951

S.R.O. 1517.—In pursuance of sections 3 and 4 of the Employees' State Insurance Act, 1948 (XXXIV of 1948), the Central Government hereby directs that the following further amendment shall be made in the notification of the Government of India in the Ministry of Labour, No. SS.21(2)(2), dated the 6th September, 1948, constituting the Employees' State Insurance Corporation namely:—

In the said notification, for item (15), the following item shall be substituted, namely:—

"(15) Shri O. N. Misra, I.A.S.,
Labour Commissioner,
Uttar Pradesh, Kanpur."

[No. SS.121(53)]

N. M. PATNAIK, Dy. Secy

New Delhi, the 24th September, 1951

S.R.O. 1518.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the Empire of India Life Assurance Company Limited, Bombay and its workmen regarding the reinstatement of certain workmen retrenched after 31st July 1949.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD*Reference No. 3 of 1950***PRESENT:**Shri S. P. Varma, Barrister-at-Law, *Chairman.***PARTIES:**

The Empire of India Life Assurance Company Limited, Bombay.

AND

The Administrator Empire of India Life Assurance Company Limited.

Versus

Their workmen.

APPEARANCES:*For the management:*

Shri D. D. Marken, Manager, Empire of India Life Assurance Company Limited, Bombay, along with Shri M. J. Rao, Assistant Controller of Insurance Government of India deputed as Secretary to the Administrator, Empire of India Life Assurance Company Limited.

For the workmen:

Shri R. K. Sawe, representative of the discharged workmen, along with Shri P. M. Asnani, etc.

AWARD

By a notification No. L.R. 90(53) dated the 12th September, 1950 the Government of India in the Ministry of Labour referred this dispute to this Tribunal

between the Empire of India Life Assurance Company Limited, Bombay and its workmen regarding the reinstatement of certain workmen retrenched after 31st July 1949.

2. Usual notices were issued to the parties on 30th September, 1950 to submit their respective statements of claims. The parties asked for time from time to time for submission of their statements which were granted. On 1st September, 1950 I fixed the date of hearing of the case at Bombay on 22nd January 1951. In the meanwhile on 11th January, 1951, I received a joint petition from the parties stating that there is a possibility of arriving at a settlement among themselves. So on the strength of this joint petition I granted time to the parties till I heard from them. In the meanwhile I received a Notification dated the 10th July, 1951 from the Government of India, in the Ministry of Finance, appointing Shri R. Varadachari as the Administrator to manage the affairs of the company. I therefore kept the case pending till my visit to Bombay as I had another case in connection with the Oriental Life Assurance Company Limited near about that time.

3. When I was at Bombay I sent an order on 6th September directing the parties to appear before me on 14th September, 1951 with the joint memorandum of agreement. The parties readily produced before me a joint memorandum of agreement which is marked Appendix 'A' to this award.

4. I have also received a letter dated the 14th September 1951 from the Administrator, Empire of India Life Assurance Company Limited stating that the compromise arrived at has been approved by him. I mark this letter as Appendix 'B' to this award.

I give my award in terms of the compromise arrived at which is marked as Appendix 'A' to this award.

S. P. VARMA, Chairman,

Central Government's Industrial Tribunal, Dhanbad.

CAMP: BOMBAY.

Dated 15th September, 1951.

APPENDIX 'A'

Reference No. 3 of 1950

BETWEEN

EMPIRE OF INDIA LIFE ASSURANCE COMPANY LIMITED AND THEIR WORKMEN

1. Management agrees to take back in service of the company the persons mentioned in parts I and II of the statement viz., Part I: 1. A. F. D'Souza (2) Alfred Kennedy, (3) R. K. Save, (4) P. T. Bhole, (5) C. J. Kunder, (6) Daulat Ram, (7) Mohanlal, (8) P. M. Asnani.

Part II.—List of persons temporarily employed but ready to rejoin (on vacancy occurring).

(1) P. S. Padgaonkar, (2), S. K. Jaggi, (3) T. R. Obhan, (4) R. S. Kinnerker, on the same salary which they were drawing at the time of termination of their service.

2. Previous service will be counted for the purpose of gratuity.

3. Leave will be granted for the period they were in service if not taken already.

4. At the time of promotion previous service may be taken into consideration.

5. As regards Shri P. M. Asnani's demands they will be considered separately and the decision of the management will be binding on him.

6. In consideration of the above the retrenched employees agree to take back the application from the Industrial Tribunal file.

D. D. MARKEN, Manager, Empire of India Life Assurance Company Ltd.
Sd. Chairman, Central Government's Industrial Tribunal, Dhanbad.

P. M. ASNANI,

A. F. D'SOUZA,

R. K. SAVE,

A. KENNEDY,

P. S. PADGAONKAR,

Representatives of the retrenched employees.

APPENDIX 'B'

*EMPIRE OF INDIA LIFE ASSURANCE COMPANY LIMITED

HEAD OFFICE:—Empire House, Hornby Road, Post Box. No. 1 1460, Bombay,
14th September 1951.

Department: Administration.

Dewan Bahadur R. Varadachari
Administrator.

The Chairman,
Central Government Industrial Tribunal, Dhanbad.
Camp Bombay.

Reference No. 3 of 1950

SUBJECT:—*The dispute between the company and its workmen*

Sir,

Referring to your letter No. I.T.R.(21) dated the 6th instant, I have sent my Manager and my assistant to see you today itself as you happen to be in Bombay.

The terms of the compromise between the employees and the management have been approved by me and I shall feel grateful if you will pass a compromise order in accordance with those terms.

Yours faithfully,

R. VARADACHARI, Administrator

(Sd)

Chairman,

Central Government's Industrial Tribunal, Dhanbad.

[No. LR-90(53).]

S.R.O. 1519.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following awards of the Industrial Tribunal, Calcutta, in respect of certain applications under Section 33-A of the said Act preferred by workmen of banking companies.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19

Before Shri K. S. Campbell-Puri, B.A., LL.B., Chairman.

Section 33-A, Application No. 6

INDIAN BANK LTD.

In the matter of an application under Section 33-A of the Industrial Disputes Act (as amended) dated 26th February 1951, preferred by the Secretary, Indian Bank Employees Union, 12/13 Angappa Naickan Street, Madras, on behalf of Shri S. R. Sukaswami.

APPEARANCES: Shri S. Subramanian and Shri A. Annamalai, Secretaries of the Indian Bank Employees Union, Madras.

Shri T. Rao, Staff Officer, for the Bank.

AWARD

It may be stated at the outset that by Notification No. LR.2(273), dated the 21st February 1950, an Industrial Dispute pertaining to various Banks mentioned in Schedule I was referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication. The awards submitted to the appropriate Government regarding the cases which emanated from Madras and Madhya Pradesh States were not yet published when some applications under Section 33-A were filed in the Tribunal. According to Section 20 of the Act the adjudication proceedings were therefore deemed to have been pending till the award was published and consequently these applications were admitted and notices were issued to the other side. Now Section 33 of the amended Act prohibits any change in the conditions of service of workmen by dismissal or otherwise pending proceedings except with the express permission in writing of the

Tribunal, and is thus a special measure which authorises a Tribunal to assume jurisdiction over an industrial dispute arising out of the violation of the provisions of Section 33 as amended by the Industrial Disputes (Appellate Tribunal) Act, 1950 without a formal reference from the appropriate Government as contemplated under Section 10 of the Act.

This is an application under Section 33-A preferred by the Secretary, Indian Bank Employees Union, Madras, on behalf of Shri S. R. Sukaswami. The facts of this case are identical with that of Shri T. D. Subramanian (a separate award for which has been given). This employee also was working as a clerk of the Indian Bank Ltd., at Coimbatore and was transferred to Cochin on 11th January 1951. His grievances like that of Shri Subramanian is that he was sent to a place which was unknown to him as the regional language was Malayalam and that he was dislocated on account of his Trade Union activities. The Bank categorically denied the allegations regarding his Trade Union activities and averred that the transfer was made purely on account of exigencies of service. The same legal objection was also raised in this case viz. that transfer does not amount to alteration of service conditions as contemplated under Section 33 of the Act. The legal aspect of the question has been discussed in the case of Shri T. D. Subramanian and I am of the considered opinion that transfer from one place to another under the same management does not amount to the breach of Section 33. In the result the complaint fails and the same is dismissed.

K. S. CAMPBELL-PURI, Chairman,

Central Government Industrial Tribunal, Calcutta.

CALCUTTA,

Dated 12th September, 1951.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19

Before Shri K. S. Campbell-Puri, B.A., LL.B., Chairman.

Section 33-A Application No 7

INDIAN BANK LTD.

In the matter of an application under Section 33-A of the Industrial Disputes Act (as amended) dated the 26th February 1951, preferred by the Secretary, Indian Bank Employees Union, 12/13 Angappa Naickan Street, Madras, on behalf of Shri S. V. Ganapathi Subramanian.

APPEARANCES: Shri S. Subramanian and Shri A. Annamalai, Secretaries of the Indian Bank Employees Union, Madras.

Shri T. Rao, Staff Officer, for the Bank.

AWARD

It may be stated at the outset that by Notification No. LR. 2(273), dated the 21st February 1950, an industrial dispute pertaining to various Banks mentioned in Schedule I was referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication. The awards submitted to the appropriate Government regarding the cases which emanated from Madras and Madhya Pradesh States were not yet published when some applications under Section 33-A were filed in the Tribunal. According to Section 20 of the Act the adjudication proceedings were therefore deemed to have been pending till the award was published and consequently these applications were admitted and notices were issued to the other side. Now Section 33 of the amended Act prohibits any change in the conditions of service of workmen by dismissal or otherwise pending proceedings except with the express permission in writing of the Tribunal, and is thus a special measure which authorises a Tribunal to assume jurisdiction over an industrial dispute arising out of the violation of the provisions of Section 33 as amended by the Industrial Disputes (Appellate Tribunal) Act, 1950 without a formal reference from the appropriate Government as contemplated under Section 10 of the Act.

This is an application under Section 33-A preferred by the Secretary, Indian Bank Employees Union, Madras, on behalf of Shri S. V. Ganapathi Subramanian. The facts of this case are identical with that of Shri T. D. Subramanian (a separate award for which has been given). This employee also was working as a clerk of the Indian Bank Ltd. at Coimbatore and was transferred to Bangalore Cantonment on 11th January 1951. His grievances like that of Shri Subramanian is that he was sent to a place which was unknown to him as the regional language was Kanarese and that he was dislocated on account of his Trade Union activities. The Bank categorically denied the allegations regarding his

Trade Union activities and averred that the transfer was made purely on account of exigencies of service. The same legal objection was also raised in this case viz. that transfer does not amount to alteration of service conditions as contemplated under Section 33 of the Act. The legal aspect of the question has been discussed in the case of Shri T. D. Subramanian and I am of the considered opinion that transfer from one place to another under the same management does not amount to the breach of Section 33. In the result the complaint fails and the same is dismissed.

K. S. CAMPBELL-PURI, Chairman,
Central Government Industrial Tribunal, Calcutta.

CALCUTTA,

Dated 12th September, 1951.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19

Before Shri K. S. Campbell-Puri, B.A., LL.B., Chairman.

Section 33-A Application No. 8

INDIAN BANK LTD.

In the matter of an application under Section 33-A of the Industrial Disputes Act (as amended) dated 26th February 1951, preferred by the Secretary, Indian Bank Employees Union, 12/13 Angappa Naickan Street, Madras, on behalf of Shri M. S. Ramnatha.

APPEARANCES:

Shri S. Subramanian and Shri A. Annamalai, Secretaries of the Indian Bank Employees Union, Madras.

Shri T. Rao, Staff Officer, for the Bank.

AWARD

It may be stated at the outset that by Notification No. LR2(273), dated 21st February 1950, an industrial dispute pertaining to various Banks mentioned in Schedule I was referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication. The awards submitted to the appropriate Government regarding the cases which emanated from Madras and Madhya Pradesh States were not yet published when some applications under Section 33-A were filed in the Tribunal. According to Section 20 of the Act the adjudication proceedings were therefore deemed to have been pending till the award was published and consequently these applications were admitted and notices were issued to the other side. Now Section 33 of the amended Act prohibits any change in the conditions of service of workmen by dismissal or otherwise pending proceedings except with the express permission in writing of the Tribunal and is thus a special measure which authorises a Tribunal to assume jurisdiction over an industrial dispute arising out of the violation of the provisions of Section 33 as amended by the Industrial Disputes (Appellate Tribunal) Act, 1950 without a formal reference from the appropriate Government as contemplated under Section 10 of the Act.

This is an application under Section 33-A preferred by the Secretary, Indian Bank Employees Union, Madras, on behalf of Shri M. S. Ramnatha. The facts of this case are these: Shri Ramnatha was working in Bangalore Cantonment branch of the Bank and happened to be the office bearer of the Branch Union at Bangalore. He was, however, transferred a few months back to Davangere Branch situated about 200 miles away from Bangalore. On the employees representation this transfer was cancelled by the management but again he was transferred to Mysore. This time again the management was approached to cancel the transfer but the management did not pay any heed and the applicant was called upon to join duty at Mysore. The grievance of the applicant is that the transfer was made wilfully in order to weaken the Union activities. The prayer sought for was for setting aside the order of transfer and for sending Shri M. S. Ramnatha back to Bangalore as well as for the payment of compensation of Rs. 300 for the dislocation of his family life and other inconvenience caused to him on account of the transfer.

The application was opposed by the Bank and it was alleged *inter alia* that the management was not aware about the status of the applicant in the labour Union and the transfer was not due to his Trade Union activities but was made purely on account of the exigencies of service. It was also contended that transfer of any employee from one office to another did not amount to alteration of service conditions of the employee and under the terms of appointment he was bound

to work at any office of the Bank that he would be posted. It was also urged that the disputes pending before the Tribunal under Notification No. LR 2(273), dated 21st February 1950 did not amount to industrial disputes because they were individual disputes and as such the applicant was not a 'workman concerned' as contemplated under Section 33 of the Act. The last objection has already been dealt with in other cases and in purview of the legal provisions of Section 18 of the Act whereby a settlement or an award which has become enforceable is binding on all parties to the industrial dispute and all workmen who are employed in the establishment are part of the establishment. This objection is accordingly overruled. The main point for determination is as to whether transfer amounts to breach of Section 33. The Union on behalf of the applicant raised the plea that the transfer was actuated by ulterior motive in order to check-mate the activities of Trade Union workers but the only evidence adduced in support of this plea comprises of a letter addressed to the Secretary, Indian Bank Employees Union by the applicant dated 16th August 1951 wherein the applicant had informed the Secretary about his Trade Union activities and that he was paying subscription regularly and was doing everything in furtherance of the Trade Union activities. The other document (Ex. B) is a copy of the bye-laws and rules of the Indian Bank Employees Union. This documentary evidence of course clearly shows that the applicant was a member of the Union and must have been taking active part in the Trade Union activities. But this by itself does not furnish any cogent evidence that this transfer was motivated on account of his Trade Union activities and he was sent to Mysore in order to injure the Union cause. Office bearers in Labour Organisations also are apt to make room for others and in view of the fact that his transfer to Davangere was cancelled in the first instance shows that the management was responsive to the grievances of the employees. The transfer in question is from Bangalore to Mysore which place admittedly is not far off. In the circumstances, it is indeed difficult to lay down any such principle that no Trade Union Worker be transferred from one place to another for the simple reason that it would affect the activities of the employee. The result is that the complaint fails and the same is dismissed.

K. S. CAMPBELL-PURI, *Chairman*,

Central Government Industrial Tribunal, Calcutta.

CALCUTTA,

Dated 12th September 1951

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*

Section 33-A Application No. 9

INDIAN BANK LTD.

In the matter of an application under Section 33-A of the Industrial Disputes Act (as amended) dated 26th February 1951, preferred by the Secretary, Indian Bank Employees Union, 12/13 Angappa Nalckan Street, Madras, regarding changed in Leave Rules.

APPEARANCES:

Shri S. Subramanian and Shri A. Annamalai, Secretaries of the Indian Bank Employees Union, Madras.

Shri T. Rao, Staff Officer, for the Bank.

AWARD

It may be stated at the outset that by Notification No. LR 2(273), dated 21st February 1950, an industrial dispute pertaining to various Banks mentioned in Schedule I was referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication. The awards submitted to the appropriate Government regarding the cases which emanated from Madras and Madhya Pradesh States were not yet published when some applications under Section 33-A were filed in the Tribunal. According to Section 20 of the Act the adjudication proceedings were therefore deemed to have been pending till the award was published and consequently these applications were admitted and notices were issued to the other side. Now Section 33 of the amended Act prohibits any change in the conditions of service of workmen by dismissal or otherwise pending proceedings except with the express permission in writing of the Tribunal and is thus a special measure which authorises a Tribunal to assume jurisdiction over an industrial dispute arising out of the violation of the provisions of Section 33 as amended by the Industrial Disputes (Appellate Tribunal) Act, 1950 without a formal reference from the appropriate Government as contemplated under Section 10 of the Act.

This is an application under Section 33-A preferred by the Secretary, Indian Bank Employees Union, Madras and relates to a grievance regarding change in leave rules. It was claimed by the Union side that any change in leave rules amounts to alteration in service conditions under Section 33. The Bank position explained by the Bank representative in reply was that in changing the leave rules they had only implemented the recent award of the All India Industrial Tribunal (Bank Disputes), Bombay, and that this change does not amount to a breach of Section 33. It seems quite clear to me that change in leave rules does not amount to any punishment and as such does not constitute breach of the provisions of Section 33 of the Act. I am fortified in this view, which was also taken by Industrial Tribunal, Bombay in the case of Indian Hume Pipe Co. Ltd. versus their workmen. The claim is therefore devoid of any merit and the same is dismissed.

K. S. CAMPBELL-PURI, *Chairman,*
Central Government Industrial Tribunal, Calcutta.

CALCUTTA,

Dated 12th September 1951

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman.*

Section 33-A Application No. 14

CANARA BANK LTD.

In the matter of an application under Section 33-A of the Industrial Disputes Act (as amended) dated 7th February 1951, preferred by Shri K. Krishnan Nair, Residing in Kottolli Amsom, Desom, Kizakkayil House, Puthiyara, P.O., Calicut (Malabar).

APPEARANCES:

Shri A. Narayan Pai, Director, for the Bank.
None for the claimant.

AWARD

It may be stated at the outset that by Notification No. LR2(273), dated 21st February 1950, an industrial dispute pertaining to various Banks mentioned in Schedule I was referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication. The awards submitted to the appropriate Government regarding the cases which emanated from Madras and Madhya Pradesh States were not yet published when some applications under Section 33-A were filed in the Tribunal. According to Section 20 of the Act the adjudication proceedings were therefore deemed to have been pending till the award was published and consequently these applications were admitted and notices were issued to the other side. Now Section 33 of the amended Act prohibits any change in the conditions of service of workmen by dismissal or otherwise pending proceedings except with the express permission in writing of the Tribunal and is thus a special measure which authorises a Tribunal to assume jurisdiction over an industrial dispute arising out of the violation of the provisions of Section 33 as amended by the Industrial Disputes (Appellate Tribunal) Act, 1950 without a formal reference from the appropriate Government as contemplated under Section 10 of the Act.

This is an application under Section 33-A of the Industrial Disputes Act preferred by Shri K. Krishnan Nair, Puthiyara P.O., Calicut (Malabar). His case as disclosed from the application is that he was appointed as a Watchman of the Canara Bank Ltd., Calicut Branch in 1945 and since then he had been carrying out his duties as Watchman without any complaint. His services, however, were terminated after the publication of the All India Industrial Tribunal (Bank Disputes) award on the plea that regular watchmen were not needed and that some cheaper arrangement with Gurkhas was made. He was, paid only three months salary and other allowances last drawn in lieu of notice. His grievance is that the action taken against him was not just and he wants reinstatement.

The Bank raised some preliminary objections regarding the pendency of the proceedings and the interpretation put on the word 'workman concerned' as raised in other applications also. These objections have already been answered and overruled and the same finding prevails in this case. On merits the Bank's position was that this Bank was a 'C' class Bank according to the classification adopted by the All India Industrial Tribunal (Bank Disputes) Bombay, and in the case of subordinate staff including watchman of 'C' class Banks certain

directions were given by their lordships of the All India Industrial Tribunal (Bank Disputes) in their award and that in pursuance of those instructions re-organization of subordinate staff was taken in hand and the applicant who was an old man and had reached the age of superannuation was discharged. Shri A. Narayan Pai, Director of the Bank, maintained that the applicant had become old and under rules could not be retained in service. He was still paid three months salary as a concession and his services were terminated. I see no good reason to disbelieve the averment made by the Bank representative which is supported by documentary evidence Exhibits 1 and 2 and no interference is called for. The application fails and is dismissed.

K. S. CAMPBELL-PURI, *Chairman,*

Central Government Industrial Tribunal, Calcutta.

CALCUTTA,

Dated 12th September 1951.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA—19

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*

Section 33-A Application No. 13

CANARA BANKING CORPORATION LTD.

In the matter of an application under Section 33-A of the Industrial Disputes Act (as amended) dated 2nd March 1951, preferred by Shri N. Srinivas Kamath, Nadakkal Madom, East of M. M. G. School, Shertallay (U.S.T.C.).

APPEARANCES:

Shri K. S. Shenai, Deputy General Manager, for the Bank.

None for the applicant.

AWARD

It may be stated at the outset that by Notification No. LR2(273), dated 21st February 1950, an industrial dispute pertaining to various Banks mentioned in Schedule I was referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication. The awards submitted to the appropriate Government regarding the cases which emanated from Madras and Madhya Pradesh States were not yet published when some applications under Section 33-A were filed in the Tribunal. According to Section 20 of the Act the adjudication proceedings were therefore deemed to have been pending till the award was published and consequently these applications were admitted and notices were issued to the other side. Now Section 33 of the amended Act prohibits any change in the conditions of service of workmen by dismissal or otherwise pending proceedings except with the express permission in writing of the Tribunal and is thus a special measure which authorises a Tribunal to assume jurisdiction over an industrial dispute arising out of the violation of the provisions of Section 33 as amended by the Industrial Disputes (Appellate Tribunal) Act, 1950 without a formal reference from the appropriate Government as contemplated under Section 10 of the Act.

This is an application under Section 33-A of the Industrial Disputes Act preferred by Shri N. Srinivas Kamath, Nadakkal Madom, East of M. M. G. School, Shertallay (U.S.T.C.). His complaint is that he was an ex-employee of the Canara Banking Corporation Ltd. and had put in about two years' service, but was forced to resign from the Bank under the circumstances narrated in the application. He wants reinstatement and also claims for the payment of the travelling expenses incurred in connection with the visit to Madras to meet the General Manager as well as travelling allowance and Daily Allowance from Mettupalayam to Cochin on transfer, and one month's salary in lieu of notice as the resignation was obtained by force.

The Bank resisted the claim and in a lengthy written statement referred to various accusations brought against the employee upon which warnings and admonitions were given to the applicant to stop reckless discounting. It was averred that the applicant had discounted the bills of parties who were not regular customers of the Bank and cited certain specific cases. It was further stated that the resignation was tendered by the claimant in March 1950 and he kept silent for full one year and moved the Tribunal in March 1951. It was lastly urged that the resignation was made voluntarily and the Tribunal had no jurisdiction to go into the case.

Now the applicant did not make his appearance and adduced no evidence to substantiate the charge of threat or coercion under which according to him the

resignation was made. On the otherhand the Bank produced documentary evidence comprising of certain correspondence and other letters Exhibits 1 to 14. The letter of resignation (Ex. 1) however clinches the matter. This reads as follows:

Exhibit 1

Udipi;

29th March 1950

N. Srinivas Kamath
Accountant, Cochin Office.

The General Manager,
The Canara Banking Corporation Ltd.,
Udipi.

Dear Sir,

I hereby tender my resignation of my service in the Bank. I request you to kindly arrange for payment of my staff security deposit at your earliest convenience and also a certificate.

Thanking you,

Yours obediently.

(Sd.) N. S. KAMATH.

In the light of this resignation quoted above, other documentary evidence need not be gone into and I am furthermore of the opinion that an application complaining that a workman resigned his job with the employer under threat cannot be entertained under Section 33/33-A of the Act inasmuch as it does not amount to discharge or punishment of the worker. The claim is devoid of any merit and the same is disallowed.

K. S. CAMPBELL-PURI, *Chairman,*
Central Government Industrial Tribunal, Calcutta.

CALCUTTA,

★ Dated 12th September 1951.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1, GURUSADAY ROAD, BALLYGUNGE, CALCUTTA—19

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*

Section 33-A Application No. 12

CANARA BANK LTD.

In the matter of an application under Section 33-A of the Industrial Disputes Act (as amended) dated 7th March 1951, preferred by Shri P. K. Xavier. Parappuram House, South Parur, Mulanthuruthy, Cochin.

APPEARANCES:

Shri A. Narayan Pai, Director, for Canara Bank.

None for the applicant.

AWARD

It may be stated at the outset that by Notification No. LR.2(273), dated 21st February 1950, an industrial dispute pertaining to various Banks mentioned in Schedule I was referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication. The awards submitted to the appropriate Government regarding the cases which emanated from Madras and Madhya Pradesh States were not yet published when some applications under Section 33-A were filed in the Tribunal. According to Section 20 of the Act the adjudication proceedings were therefore deemed to have been pending till the award was published and consequently these applications were admitted and notices were issued to the other side. Now Section 33 of the amended Act prohibits any change in the conditions of service of workmen by dismissal or otherwise pending proceedings except with the express permission in writing of the Tribunal, and is thus a special measure which authorises a Tribunal to assume jurisdiction over an industrial dispute arising out of the violation of the provisions of Section 33 as amended by the Industrial Disputes (Appellate Tribunal) Act, 1950 without a formal reference from the appropriate Government as contemplated under Section 10 of the Act.

This is an application under Section 33-A of the Industrial Disputes Act, dated 7th March 1951 preferred by Shri P. K. Xavier, Parappuram House, South Parur, Mulanthuruthy, Cochin. The applicant was not present on the 27th August when this case was called but as all these cases under Section 33-A from Madras and Madhya Pradesh States were fixed from 27th to 30th August 1951, the hearing was adjourned to 29th. The applicant did not make his appearance on that day also and the case was heard in absentia with the application of Rule 19 of the Industrial Disputes (Central) Rules. The case of the applicant as disclosed from the application is that he joined the Bank's service on 24th January 1949 on a monthly salary of Rs. 165. Under the terms of the appointment he was to work as a probationer for 12 months after which he was to be taken to the regular staff of the Company. He served as 'executive trainee' for the said probationary period and was afterwards drafted to the regular staff and was made to contribute to the Provident Fund for 9 months i.e. from March 1950 to November 1950. His services, however, were terminated on the 1st December 1950 without any good reason on the pretext of re-organization of the staff. It was further alleged that despite several requests and representations made to the management for reinstatement his grievance was not redressed. Hence the claim.

The management on the other hand categorically denied the allegations made by the applicant and averred that the services of the applicant were terminated on the general re-organization of the staff which was undertaken with a view to increase efficiency and for checking waste, and the matter of re-organizing the staff was duly considered by the Executive Committee of Bank's Directors and was gone into in all details at a Conference by the Supervising Director, the General Manager, the Supervisors and Inspectors. The Conference came to the conclusion that certain employees were inefficient and below average and that their retention in service was adversely affecting the efficiency of the offices. It was further stated that the applicant was selected for a course of training and it was not correct to say that he was drafted to the regular service of the Bank. He was only a trainee and was permitted to contribute to the staff Provident Fund not as a permanent employee but as a concession given to Executive Trainees by a Resolution of the Board of Directors whereby the privilege of Provident Fund was extended to unconfirmed Executive Trainees. A preliminary legal objection was also raised in the written statement to the effect that the Tribunal had to deal with industrial disputes under Notification No. LR.2(273), dated 21st February 1950 only and that this Tribunal had no jurisdiction over causes which arose after that Reference.

The legal objection obviously is devoid of any substance and falls to the ground because Section 33 imposes a bar on the employer to make any alteration or change in the conditions of service during the pendency of the proceedings and the pendency and continuance of proceedings as contemplated under Section 20 of the Industrial Disputes Act shall be deemed to have commenced on the date of the Reference of a dispute for adjudication and concluded when the award is published by the appropriate Government under Section 17 of the Act. As this application was filed before the publication of Madras award the objection is untenable and the same is repelled.

On merits, the Bank relied upon certain documentary evidence Exhibits 1 to 12 which may be summarised as below:

Exhibit 1—is the copy of the conditions of appointment.

Exhibit 2—is an order of the General Manager wherein it is stated that in the conditions of appointment the period of probation was stated to be one year as against 3 years the normal period of probation for Executive Trainees; but we believe it was our intention to make a deviation in this case having regard to his previous experience and confirm his services at the end of the period if his work has been found satisfactory.

Exhibit 3—is the extract of reports of various officers.

Exhibit 4—is an order whereby the Executive Trainees are permitted to join the Provident Fund on completion of one year's training.

Exhibit 5—is an order of the General Manager whereby Shri P. K. Xavier was permitted to join and contribute to the Staff Provident Fund with effect from 1st April 1950.

Exhibit 6—is the Confidential report of the General Manager regarding the policy of the Board.

Exhibit 7—is the copy of the report of the Supervisor and Inspector of Branches regarding the work of the employees who are considered as below average.

Exhibit 8—is a chart showing marks secured by Shri Xavier against certain sub-heads viz. Integrity, Accuracy in execution of work, Neatness in execution of work, etc. etc.

Exhibits 9, 10 and 11—deal with the proceedings of the Conference of the Directors.

The conclusions arrived at are embodied in Exhibit 12 with the remark that there were justifiable grounds for terminating his services in the course of re-organization of staff for the purpose of eliminating inefficiency. It was further added that he was entitled to only one month's notice or payment of one month's salary in lieu of notice; but in addition to one month's salary in lieu of notice he was paid a further sum of Rs. 310 equal to two month's salary by way of solatium.

The examination and analysis of all this documentary evidence brought on the record shows that the management did not act in any perfunctory manner in the matter of re-organization but the point which falls for determination is as to whether the services of Mr. Xavier who was confirmed by the order of the General Manager and in whose case a deviation was made from the normal period of probation of three years having regard to his previous experience was found inefficient in the course of investigation. The other question which poses for discussion is that when once this employee was confirmed and had become a permanent employee of the Company whether his services could be terminated without having obtained the necessary permission of the Tribunal under Section 33 which under the amended Act imposes a definite bar on employers during the pendency of any proceedings against alteration of conditions of service prejudicial to the workmen concerned in such dispute and against discharge or punishment whether by dismissal or otherwise except with the express written permission of the Board or Tribunal. No cogent reply is forthcoming from Bank side on both the aforesaid questions and it appears to me that the management either was not aware or deliberately by-passed the provisions of Section 33 in terminating the services of Shri P. K. Xavier. The management even might have some reasons to eliminate waste but could not roughshod over the salutary provisions of the Act contemplated under Section 33. I have therefore no alternative but to set aside the order of discharge from service of Shri Xavier.

The relief sought is for reinstatement. I am, however, of the opinion that in cases where discharge has been ordered owing to Trade Union activities or where the order of discharge amounts to unfair labour practice on the part of the employer reinstatement may be the normal remedy. But in other cases where there is no touch upon the bad labour practice and the action is traceable to defective procedure or harshness, the Tribunal would rather loath to disturb the decision reached by the employer after due enquiry.

The case of Shri P. K. Xavier manifestly does not fall within the scope of victimization and it appears to be one of harshness and as such I am of the opinion that it is a fit case for compensation which I assess as six months salary and allowances permissible under rules. The Bank is accordingly directed to carry out the order within one month from the date when the award becomes operative.

K. S. CAMPBELL-PURI, *Chairman,*

Central Govt. Industrial Tribunal, Calcutta

CALCUTTA,

Dated 12th September 1951

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1, GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*

Section 33-A, Application No. 10

INDIAN BANK LTD.

In the matter of an application under Section 33-A of the Industrial Disputes Act (as amended) dated 26th February 1951, preferred by the Secretary, Indian Bank Employees Union, 12/13, Angappa Naickan Street, Madras, on behalf of Shri K. Krishnan.

APPEARANCES:

Shri S. Subramanian and Shri A. Annamalai, Secretaries of the Indian Bank Employees Union, Madras.

Shri T. Rao, Staff Officer, for the Bank.

AWARD

It may be stated at the outset that by Notification No. LR.2(273), dated 21st February 1950, an industrial dispute pertaining to various Banks mentioned in Schedule I was referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication. The awards submitted to the appropriate Government regarding the cases which emanated from Madras and Madhya Pradesh States were not yet published when some applications under Section 33-A were filed in the Tribunal. According to Section 20 of the Act the adjudication proceedings were therefore deemed to have been pending till the award was published and consequently these applications were admitted and notices were issued to the other side. Now Section 33 of the amended Act prohibits any change in the conditions of service of workmen by dismissal or otherwise pending proceedings except with the express permission in writing of the Tribunal, and is thus a special measure which authorises a Tribunal to assume jurisdiction over an industrial dispute arising out of the violation of the provisions of Section 33 as amended by the Industrial Disputes (Appellate Tribunal) Act, 1950 without a formal reference from the appropriate Government as contemplated under Section 10 of the Act.

This is an application under Section 33-A preferred by the Secretary, Indian Bank Employees Union, Madras, on behalf of Shri K. Krishnan. The facts are fully set out in the application and need not be reiterated. The applicant was dismissed on the 30th December 1950 as per Bank's letter placed on the record (Ex. A). The plea of the employee as stated by the Union representative and as urged by him in his explanation was that he did not defy the Bank authority and at the most it was a case of minor inadvertence on account of hurry in business and did not call for the extreme penalty imposed on the employee.

Shri T. Rao, the Bank representative, raised the preliminary objection that Section 33-A application is not entertainable because the same was not filed during the pendency of the proceedings. The proceedings pending at Bangalore were not industrial disputes and as such it was emphasised that no proceedings were pending. It was stressed that there were four cases of this Bank pending at that time and all were individual cases and did not amount to industrial dispute. The next objection was that even if for the sake of arguments the proceedings were pending the applicant was not 'workman concerned' as contemplated under Section 33. On merits it was submitted that the applicant prepared a forged document and his action amounted to misconduct and the Bank was justified in terminating his services. The original letter in question was produced (Ex. 1) in evidence and it was stressed that the signature on the original letter was not normal and was made in a disguised hand which shows *mala fide* intention. The explanation submitted by the employee in the first instance dated 30th October 1950 was also produced (Ex. 2) in original and it was emphasised that his normal signatures can be compared with the other. A copy of the report (Ex. 3) was also produced. Finally, it was submitted that due enquiry was made and opportunity was afforded to the applicant for explanation and to meet the charge.

In reply the Union representative further argued that the cases pending before the Tribunal at Bangalore were industrial disputes under Notification No. LR.2(273), dated 21st February 1950 and it was not correct to say that they were individual cases and as such conditions of service were altered contrary to the provisions of Section 33. Replying to the other contention *viz.* that the applicant was not a workman concerned, it was submitted that in the light of the provisions of Section 18 whereby the award applies to all employees and not only those whose cases were pending, the applicant's conditions of service could not be altered. On merits it was further stated that whatever may be the facts permission was necessary under Section 33 which was not obtained and as such the order was bad in law.

Now the legal objections have been dealt with in other applications and suffice it to say that both the legal contentions raised by the Bank are devoid of any force and must be repelled. The provisions of Section 18 of the Act furnish a complete answer to the objection and the point need not be elaborated. The real question for determination is as to whether the action of Shri Krishnan amounted to misconduct. In this respect some evidence was also produced by the Bank comprising over Exhibits 1, 2 and 3. The explanation of the applicant (Ex. 2) is more significant and the operative part of that may well be reproduced.

"Ex. 2.—I was really in need of some money and sent a letter through our office peon Selvarajan for getting the money applied for and execute the necessary documents etc., afterwards, if pressed for by the party. I had no motive behind it either to insult the Agent, or the institution or the party concerned. The very fact that my name is at the

top of the letter head is a sufficient proof that there was no motive whatsoever. In the hurry of business I might have inserted "Agent" immediately after the words "Yours Faithfully", as if I was writing the routine office letters. Even this, I understood only when the Agent told me about it. This is to the best of my knowledge has been effected by an oversight for which act, I regret very much and I pray that I may be excused for my negligence."

The above quotation manifestly amounts to admission of guilt and the punishment awarded by the management viz. one of dismissal, does not call for interference inasmuch as this Tribunal has always been sloth in substituting its own judgment in place of one passed by the management when guilt is proved. The Labour Appellate Tribunal has also observed likewise and have recently held in Appeal No. 56 (Bombay) of 1951 that the Tribunal had no jurisdiction to enter into the question of punishment meted by the employer after enquiry when the offence is proved except in cases of want of *bona fides*, unfair Labour Practice etc. In the result the claim fails and is dismissed.

K. S. CAMPBELL-PURI, Chairman,
Central Govt. Industrial Tribunal, Calcutta

CALCUTTA,

Dated 12th September 1951.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1, GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19

Before Shri K. S. Campbell-Puri, B.A., LL.B., Chairman

Section 33-A Application No. 11

EASTERN BANK LTD.

In the matter of an application under Section 33-A of the Industrial Disputes Act (as amended), dated 7th March 1951, preferred by the General Secretary, Madras Provincial Union of Bank Employees, 4, Kondy Chetty Street, Madras, on behalf of Shri C. Lakshmana Mudaliar.

APPEARANCES:

Neither side was present.

AWARD

It may be stated at the outset that by Notification No. LR.2(273), dated 21st February 1950, an industrial dispute pertaining to various Banks mentioned in Schedule I was referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication. The awards submitted to the appropriate Government regarding the cases which emanated from Madras and Madhya Pradesh States were not yet published when some applications under Section 33-A were filed in the Tribunal. According to Section 20 of the Act the adjudication proceedings were therefore deemed to have been pending till the award was published and consequently these applications were admitted and notices were issued to the other side. Now Section 33 of the amended Act prohibits any change in the conditions of service of workmen by dismissal or otherwise pending proceedings except with the express permission in writing of the Tribunal, and is thus a special measure which authorises a Tribunal to assume jurisdiction over an industrial dispute arising out of the violation of the provisions of Section 33 as amended by the Industrial Disputes (Appellate Tribunal) Act, 1950 without a formal reference from the appropriate Government as contemplated under Section 10 of the Act.

This is an application under Section 33-A preferred by the General Secretary, Madras Provincial Union of Bank Employees, Madras. This claim was admitted but before the actual hearing of the case the Vice President of the said Madras Provincial Union of Bank Employees informed the Tribunal that the management had reinstated Shri C. Lakshmana Mudaliar, the applicant and that the application was withdrawn. The application needs no adjudication and the same is filed.

K. S. CAMPBELL-PURI, Chairman,
Central Government Industrial Tribunal, Calcutta.

CALCUTTA,

12th September, 1951

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1, GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19

Telephone: PK.3470.

Telegrams: ADJUDICATION.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman**Section 33-A Application No. 2***BHARAT BANK LTD.**

In the matter of an application under Section 33-A of the Industrial Disputes Act (as amended), dated 17th February 1951, preferred by Shri P. G. Rakhe, C/o T. S. Kulkarni Kashikar Nurse Wada, Chapmanwadi, Yeotmal (Berar).

APPEARANCES:

Shri M. M. Gupta, Accountant, for Bharat Bank.

None for the applicant.

AWARD

It may be stated at the outset that by Notification No. LR.2(273), dated 21st February, 1950, an industrial dispute pertaining to various Banks mentioned in Schedule I was referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication. The awards submitted to the appropriate Government regarding the cases which emanated from Madras and Madhya Pradesh States were not yet published when some applications under Section 33-A were filed in the Tribunal. According to Section 20 of the Act the adjudication proceedings were, therefore, deemed to have been pending till the award was published and consequently these Section 33-A applications were admitted and notices were issued to the other side. Now Section 33 of the amended Act prohibits any change in the conditions of service of workmen by dismissal or otherwise pending proceedings except with the express permission in writing of the Tribunal and is thus a special measure and Section 33-A authorises a Tribunal to assume jurisdiction over an industrial dispute arising out of the violation of the provisions of Section 33 as amended by the Industrial Disputes (Appellate Tribunal) Act, 1950 without a formal reference from the appropriate Government as contemplated under Section 10 of the Act.

This is an application preferred by Shri P. G. Rakhe and his grievance is that he was an old employee of Bharat Bank Ltd.; but his services were terminated from 22nd November 1950 during the pendency of the Bank Reference No. LR.2(273), dated 21st February 1950 without any good cause. The relief sought was for reinstatement and for payment of back salary with other emoluments. The petitioner was not present and sent a representation stating his inability to attend the proceedings. It was further submitted by him that the facts given in the petition were considered as part of argument.

The petition was resisted by the Bank on the plea that the services of the petitioner were terminated as a measure of economy because the Bank had closed several branches and the employees had become surplus to the requirement. It was submitted that Shri Rakhe was the junior most clerk among the clerical cadre and could not be retained.

Shri Gupta, Bank representative, furthermore, argued that Bharat Bank had already ceased to be a Banking Company after the agreement of 10th March 1951 whereby the assets and liabilities have been transferred to Punjab National Bank and that the Tribunal had no jurisdiction over the dispute. On merits it was submitted that it was a case of retrenchment which was effected as an economic measure because the Bank could not afford to run its branches and some reduction in staff had become necessary at that time.

The question of jurisdiction has already been considered at some length by me in the Uttar Pradesh State Bank Disputes award and in the light of that finding the objection is over-ruled. Now permission of the Tribunal for the termination of the services of the employee during the pendency of the Bank Reference was admittedly not obtained and as such the order of termination was bad in law. But pertaining to Bharat Bank, the only relief that can be granted is one of retrenchment relief, as held in previous cases and I would adhere to the same course.

The employee, Shri P. G. Rakhe joined the Bank's service on 7th August 1947 for a probationary period of six months and was confirmed in the month of Feb-

1947. His services came to close on 22nd November 1950. He is, therefore, entitled to retirement relief for the period in between the date of confirmation and the date of the termination of his services at the rate of half month's salary plus allowances admissible at the time of termination of service for each completed year of service. The Bank is directed to carry out the order within one month from the date of the publication of the award.

K. S. CAMPBELL-PURI, *Chairman,*

CALCUTTA,

Central Government Industrial Tribunal, Calcutta.

Dated 10th September, 1951

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19.

Telephone: PK.3470.

Telegrams: ADJUDICATION.

Before Shri K. S. Campbell-Puri, B.A., LL.B. *Chairman.*

Section 33-A Application No. 1

PALAI CENTRAL BANK LTD.

In the matter of an application under Section 33-A of the Industrial Disputes Act (as amended)-dated, 19th February 1951, preferred by the President, All-Travancore Bank Employees Union, Trivandrum (Travancore-Cochin) in respect of Shri V. J. John.

APPEARANCES.

Shri V. J. John in person Shri John Thomas, Advocate, Madras, for Shri V. J. John.

Shri P. A. Francis, an Officer of the Bank, for Palai Central Bank Ltd

AWARD

It may be stated at the outset that by Notification No. LR 2(273), dated 21st February 1950, an industrial dispute pertaining to various Banks mentioned in Schedule I was referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication. The awards submitted to the appropriate Government regarding the cases emanated from Madras and Madhya Pradesh States were not yet published when some applications under Section 33-A were filed in the Tribunal. According to Section 20 of the Act the adjudication proceedings were, therefore, deemed to have been pending till the award was published and consequently these applications were admitted and notices were issued to the other side. Now Section 33 of the amended Act prohibits any change in the conditions of service of workmen by dismissal or otherwise pending proceedings except with the express permission in writing of the Tribunal and is thus a special measure which authorises a Tribunal to assume jurisdiction over an industrial dispute arising out of the violation of the provisions of Section 33 as amended by the Industrial Disputes (Appellate Tribunal) Act 1950 without a formal reference from the appropriate Government as contemplated under Section 10 of the Act.

This is an application preferred by the President, All-Travancore Bank Employees Union, Trivandrum, on behalf of Shri V. J. John and the facts put briefly are these: Shri John was working as Head clerk at Cochin in the year 1944 when he was transferred on 6th November 1944 to branch office at Vaikom to officiate as Manager. The order dated 11th November 1944 was a brief one and reads as follows:

"Manager

Palai, November 6, 1944

Cochin

Mr V. J. John is transferred to Vaikom for a month to act as Manager
Please direct him to that office at an early date.

(Sd):

Managing Director."

He, however, continued working for a pretty long time and according to the stand taken up by the Bank he officiated as Manager up to September 1948 and according to the averments made by the petitioner, upto October 1950 when he was served with a Memo. No. 4022, enclosing a letter addressed to the Vaikom

branch by the Central office at Palai stating that Shri V. J. John was temporarily transferred to Kottayam office. This letter is also reproduced for facility of reference and reads as follows:

"No. 29065/Br

Palai
October 17, 1950

Manager,
Vaikom.

Mr. V. J. John is temporarily transferred to our Kottayam Office. Please relieve him forthwith.

(Sd):

Managing Director."

The petitioner's case is that he apprehended that the transfer would be prejudicial to his interest and submitted a representation first on 24th October 1950 and again on the 13th November 1950 to the Managing Director to reconsider his case but no reply was received and ultimately he placed his case before the All Travancore Bank Employees Union whereupon the President also moved into the matter; but no reply was given to him by the Managing Director. It was on the 27th November 1950 when the petitioner was served with a letter No. 32870/G whereby he was informed that he was in the Head Clerk's grade from October 1948 and that he was transferred as such to Kottayam office. The petitioner did not accept this decision and claimed that he was acting as Manager from the date on which he took charge at Vaikom on 6th November, 1944 till 21st October, 1950 and that he could not be demoted to the post of Head Clerk from that of Manager which he had held for more than two years. The prayer in the petition was for directing the Bank (counter petitioner) to cancel the order of demotion and to reinstate him as Manager as well as to make good the loss of pay and other emoluments he had sustained.

The Bank representative opposed the application and denied categorically all material averments and allegations made in the petition. The Bank case was that the petitioner was sent to Vaikom as acting Manager for one month only but it so happened that he continued for some years and was paid special allowance of Rs. 30/- per mensem only for officiating as Manager and his substantive pay and allowances paid to him were those of the grade of head clerk. He, however, ceased to be an Acting Manager of Vaikom Branch from 21st August 1948 and continued to work at Vaikom only as a Head Clerk. He was transferred to Kottayam when Shri V. J. Chacko joined Vaikom office as Manager and that the cause of action of the alleged demotion had occurred in the year 1948 and as such was not entertainable by the Tribunal. It was also contended that the cause of action if any arose in Part B State before the amended Act came into force and the Tribunal was not competent to take cognizance. Finally, it was submitted that the transfer order made in October 1950 relates to transfer from one office to another in the same province and the provisions of Section 33 were in no way infringed in effecting that transfer.

Regarding the preliminary objection suffice it to say that the application under Section 33-A was admitted on the 28th February 1951 as the cause of action according to the petitioner's claim had arisen in October 1950 and as such the dispute relates to a cause which occurred after the amended Act came into force. The objection on the point of jurisdiction accordingly is untenable and the sole point for determination is as to whether the order of transfer made any alteration in the conditions of service to attract the provisions of Section 33-A. The other question relates to the grievance of demotion and in this connection the controversy centres round the fact as to whether Shri John was working as Acting Manager in October 1950 when according to him the cause of action arose for preferring a petition under Section 33-A or was working as a Head Clerk as alleged by the Bank. It was argued on behalf of Shri John that he continued at Vaikom not as a Head Clerk but as Acting Manager on special duty. And that there was another head clerk working there; but it was not denied that he was getting only special allowance and not full emoluments of the office of the Manager. His prayer to set aside the order of transfer to Kottayam as Head Clerk and to reinstate him as Manager by itself indicates that he worked as officiating Manager on special allowance. On the other hand the Bank representative strenuously contended that when the petitioner admittedly worked provisionally as Acting Manager and his substantive post was that of Head Clerk, the Tribunal has no authority to promote him to the post of Manager. It was further argued that the very relief for becoming Manager takes him out from the ambit of the definition of workman and

would make him an officer. It was maintained that in case the cause of action arose in 1950 as alleged by the petitioner, it was purely a case of transfer and the question of demotion does not arise.

Now the ultimate analysis of all the facts and circumstances stated above boils down to this that in case the cause of action regarding the continuance of the petitioner as Acting Manager arose in 1948, the petitioner was out of court for want of jurisdiction. And in case the cause of action arose in October 1950 the order relates to transfer from one branch to another and the question of demotion does not arise. Promotions are, moreover, management functions and it is the management alone which is to decide the matter and the claim of the petitioner to reinstate him as Manager because he had officiated as Manager for some years is beyond the jurisdiction of the Tribunal as held by their lordships of the Labour Appellate Tribunal in the case of U.P. Electric Supply Company Ltd., Lucknow (published in the Labour Law Journal—May 1951—page 456). Regarding the order of transfer it is well recognised by this time that transfer from one branch to another in the same Province under the same management does not amount to breach of Section 33. The claim of Shri John consequently from whatever angle it may be considered is devoid of any substance and I am of the considered opinion that no case of violation of the provisions of Section 33 of the Act during the pendency of the adjudication proceedings under Reference No. LR.2(273), dated 21st February 1950 was made out by the complainant. The result is that the complaint is dismissed.

CALCUTTA,

K. S. CAMPBELL-PURI, *Chairman,*

Dated 10th September, 1951

Central Government Industrial Tribunal, Calcutta.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA—19

Telephone: PK 3470.

Telegrams: ADJUDICATION.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman,*

Section 33-A Application No. 3

INDIAN BANK LTD.

In the matter of an application under Section 33-A of the Industrial Disputes Act (as amended) dated 26th February 1951, preferred by the Secretary, Indian Bank Employees Union, 12/13 Angappa Nalckan Street, Madras, in respect of Shri B. Narayanan Nair.

APPEARANCES:

Shri S. Subramanian and Shri A. Annamalai, Secretaries of the Indian Bank Employees Union, Madras

Shri T. Rao, Staff Officer, for the Bank.

AWARD

It may be stated at the outset that by Notification No. LR.2(273) dated 21st February 1950 an industrial dispute pertaining to various Banks mentioned in Schedule I was referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication. The awards submitted to the appropriate Government regarding the cases emanated from Madras and Madhya Pradesh States were not published when some applications under Section 33-A were filed in the Tribunal. According to Section 20 of the Act the adjudication proceedings were, therefore, deemed to have been pending till the award was published and consequently these Section 33-A applications were admitted and notices were issued to the other side. Now Section 33 of the amended Act prohibits any change in the conditions of service of workmen by dismissal or otherwise pending proceedings except with the express permission in writing of the Tribunal and is thus a special measure which authorises a Tribunal to assume jurisdiction over an industrial dispute arising out of the violation of the provisions of Section 33 as amended by the Industrial Disputes (Appellate Tribunal) Act, 1950 without a formal reference from the appropriate Government as contemplated under Section 10 of the Act.

This is an application preferred by the Secretary, Indian Bank Employees Union, Madras, on behalf of Shri B. Narayanan Nair, a peon of Kottayam Branch of the Bank. The facts put briefly are these: B. Narayanan Nair was a Peon working in Kottayam Branch and had put in service of four years. His services,

however, were terminated on the 28th June 1950 without assigning any reason. Since the Bank did not obtain the prior permission, it was contended that the Bank had deliberately violated the provisions of Section 33 of the Industrial Disputes Act. The relief sought was for reinstatement and for payment of arrears of pay and allowances from the date of discharge as well as compensation for the sufferings and deprivation from service.

The Bank reply was that the disputes pending before the Tribunal under Notification No. LR.2(273), dated 21st February 1950 were not industrial disputes and these were only individual disputes and furthermore these disputes did not concern the general body of workmen. It was maintained that the provisions of Section 33 were not infringed because pendency of proceedings related to the workmen concerned only and not to all workmen and as such the Tribunal had no jurisdiction over the matter. This was however, not denied that no sanction was asked for much less obtained.

The petition was argued on behalf of the employee by the Secretary, Indian Bank Employees Union, Madras, and it was vehemently urged that the Bank had terminated the services of this Peon after the amended Act came into force and had thus flagrantly violated the provisions of Section 33 which imposes obligation upon the Bank to obtain express permission in writing.

The Bank representative reiterated the legal contention described above and on merits further submitted that the Branch at Nagarcoil was closed and the clerical staff was absorbed in other branches but the subordinate staff to which Shri B. Narayanan Nair, peon, belonged was discharged. Reliance was also placed on some documents (Exhibits 1 to 4). This documentary evidence relates to the conduct and behaviour of B. Narayanan Nair, and comprises of complaints sent by respectable people of the locality to the Bank to transfer this man from Kottayam because he was a Communist and was the source of harassment to respectable families. On going through the documentary evidence I find that B. Narayanan Nair was indeed an undesirable man but the difficulty that comes in the way is that it was open to the Bank authorities to obtain permission to dismiss the Peon from service or to have transferred him to some other place as desired by respectable persons of the locality. The Bank, however, did not resort to the legal provisions available and terminated his services without obtaining the necessary permission. Under the amended Act even in the case of retrenchment and for any cause whatsoever it is obligatory upon the management to obtain permission unlike the provisions of old Act of 1947 whereby exception was made in the cases of misconduct. I have, therefore, no alternative but to set aside the order of discharge. The next question is one of relief and in consideration of all the facts and circumstances and on the appraisal of documentary evidence I have no mind to allow the relief of reinstatement as claimed by the Peon and would only direct the Bank to pay him 3 month's basic salary as compensation. The order shall be carried out within one month with effect from the date, the award becomes operative.

CALCUTTA, K. S. CAMPBELL-PURI, *Chairman*,
Dated 10th September, 1951. Central Government Industrial Tribunal, Calcutta

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA—19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*.

Section 33-A Application No. 4

INDIAN BANK LTD.

In the matter of an application under Section 33-A of the Industrial Disputes Act (as amended) dated 23th February 1951, preferred by the Secretary, Indian Bank Employees Union, 12/13 Angappa Naicken Street, Madras, in respect of Shri S. Sitaramaayya.

APPEARANCES:

Shri S. Subramanian and Shri A. Annamalai, Secretaries of the Indian Bank Employees Union, Madras.

Shri T. Rao, Staff Officer, for the Bank

AWARD

It may be stated at the outset that by Notification No. LR2(273), dated 21st February 1950 an industrial dispute pertaining to various Banks mentioned in

Schedule I was referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication. The awards submitted to the appropriate Government regarding the cases which emanated from Madras and Madhya Pradesh States were not yet published when some applications under Section 33-A were filed in the Tribunal. According to Section 20 of the Act the adjudication proceedings were, therefore, deemed to have been pending till the award was published and consequently these applications were admitted and notices were issued to the other side. Now Section 33 of the amended Act prohibits any change in the conditions of service of workmen by dismissal or otherwise pending proceedings except with the express permission in writing of the Tribunal, and is thus a special measure which authorises a Tribunal to assume jurisdiction over an industrial dispute arising out of the violation of the provisions of Section 33 as amended by the Industrial Disputes (Appellate Tribunal) Act, 1950 without a formal reference from the appropriate Government as contemplated under Section 10 of the Act.

This is an application under Section 33-A preferred by the Secretary, Indian Bank Employees Union, Madras, on behalf of Shri S. Sitaramayya. The facts put briefly are these: Shri Sitaramayya was a Shroff working at the Bangalore Cantonment branch of the Bank. He was an old employee and had put in 12 years service but his services were abruptly terminated on the 14th July 1950 during the pendency of the Bank Reference No. LR.2(273), dated 21st February 1950. The petitioner approached the Bank authorities to reconsider their decision but the request was rejected. His complaint was that the Bank did not obtain the prior permission of the Tribunal and wilfully altered the service conditions of the petitioner to his prejudice. He wants reinstatement and payment of arrears of salary and allowances from the date of discharge.

The Bank representative resisted the claim of the petitioner and their contention was two-fold: First, that there were only individual disputes pending before the Tribunal under Notification No. LR.2(273), dated 21st February 1950 and as such no proceedings were pending within the purview of Section 33. Second, that the petitioner was not a 'workman concerned' as contemplated under Sections 33 and 33-A and as such the case was not triable for want of jurisdiction.

On merits it was submitted that the petitioner was working as Shroff and was charged with misconduct as the shortage of Rs. 200 was found in remittance made by one Shri A. H. Thirumal Rao on 17-6-1950, for which he was charge-sheeted. The applicant in his explanation admitted that he had to make good the shortage but pleaded inability to make full payment and asked for permission to pay in monthly instalments of Rs. 5. The Bank did not accept the explanation and discharged him from service on the plea of misconduct. The Union representative on behalf of the petitioner brought on the record the whole correspondence Ex. B) comprising of 27 pages and urged that much ado was made about nothing. The admission of the petitioner in his explanation (Ex. 1) dated 7th July 1950 however sets the matter at rest. The shortage was found and the petitioner as Shroff was answerable for that and he admitted that he was prepared to make up that loss as stated above. The case of misconduct was accordingly brought home to the petitioner, so far merits of the case go. Reverting to the legal objection raised by the Bank that the claim was not entertainable because the employee was not a 'workman concerned', the legal position has been fully discussed in the award given recently in Reference No. 169 of 1950 ('The United Commercial Bank Ltd. and Their workmen represented by the U.P. Bank Employees Union, Agra, in respect of the termination of the services of (1) Shri P. M. Rohtagi, (2) Shri Gulab Shankar, (3) Mani Ram, (4) Shri Devi Ram and (5) Shri S. S. Chaturvedi of Agra Branch'). Suffice it to say that the view advanced by the Bank representative that only those persons were concerned in the dispute who had already moved the Tribunal on certain grievances and other employees could not be treated as 'workmen concerned' in the purview of Section 33 was not tenable. The definition of industrial dispute as given in Section 2(k) of the Act and the provisions embodied in Section 18 sub-section (d) which deal with persons on whom awards and settlements are binding furnish a complete answer to the above contention. Under Section 18, it is clearly laid down that all employees including even those who had subsequently become employed in that establishment fall within the ambit of Section 18 sub-section (d). The term 'workmen concerned' in such dispute used in Section 33, therefore, relates to all workmen to whom the award and settlement affects under Section 18 of the Act, and there is thus no force in the contention that the proceedings were not pending. The objection is accordingly over-ruled.

Now Section 33 imposes a bar on the employer in the matter of any change in service conditions and when the employer wittingly or unwittingly does not care to abide by the provisions, the Tribunal has no alternative but to set aside the order of discharge. It appears to me that a stage has reached that the employer as well

as the employee should take good care to respect the provisions of law and the breach should no longer be countenanced in their own interest. I, however, find that the violation of the provisions of Section 33 in the circumstances of the case was not conceived contumaciously or was deliberately and wilfully made as urged by the Union side and the Bank rather acted on legal advice. Furthermore, the petitioner was also at fault, and in these circumstances I am not prepared to grant the relief of reinstatement. I would, keeping in view the length of service of the employee only allow 6 months' basic salary as compensation and direct the Bank to make payment of the amount to the applicant calculated at the date of his salary at the time of discharge within one month from the date, the award becomes effective.

K. S. CAMPBELL-PURI, *Chairman,*
Central Government Industrial Tribunal, Calcutta.

CALCUTTA,
Dated 12th September, 1951

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA—19.

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman.*

Section 33-A Application No. 5

INDIAN BANK LTD.

In the matter of an application under Section 33-A of the Industrial Disputes Act (as amended) dated 26th February 1951, preferred by the Secretary, Indian Bank Employees Union, 12/13 Angappa Naickan Street, Madras, on behalf of Shri T. D. Subramanian.

APPEARANCES:

Shri S. Subramanian and Shri A. Annamalai, Secretaries of the Indian Bank Employees Union, Madras.

Shri T. Rao, Staff Officer, for the Bank.

AWARD

It may be stated at the outset that by Notification No. I.R.2(273), dated 21st February 1950, an industrial dispute pertaining to various Banks mentioned in Schedule I was referred to this Tribunal by the Central Government in the Ministry of Labour for adjudication. The awards submitted to the appropriate Government regarding the cases which emanated from Madras and Madhya Pradesh States were not yet published when some applications under Section 33-A were filed in the Tribunal. According to Section 20 of the Act the adjudication proceedings were therefore deemed to have been pending till the award was published and consequently these applications were admitted and notices were issued to the other side. Now Section 33 of the amended Act prohibits any change in the conditions of service of workmen by dismissal or otherwise pending proceedings except with the express permission in writing of the Tribunal, and is thus a special measure which authorises a Tribunal to assume jurisdiction over an industrial dispute arising out of the violation of the provisions of Section 33 as amended by the Industrial Disputes (Appellate Tribunal) Act, 1950 without a formal reference from the appropriate Government as contemplated under Section 19 of the Act.

This is an application under Section 33-A preferred by the Secretary, Indian Bank Employees' Union, Madras, on behalf of Shri T. D. Subramanian. The complainant's case is that he was working as a clerk at Combatore branch of the Indian Bank Ltd. and happened to be an active worker of the Union. The Management in order to check his Trade Union activities transferred him to Bangalore City on 14th January 1951, a place which is unknown to the employee as the regional language at Bangalore is Kanarese. The relief sought for was for setting aside the order of transfer and for the payment of expenses incurred by him for his stay at Bangalore as well as a compensation to the extent of Rs. 300 for the dislocation of his family life and other inconveniences caused to him by this unwarranted transfer.

The Bank resisted the application and while repudiating the allegations averred that the transfer was made purely on account of exigencies of service and did not amount to any alteration of the service conditions of the employee. It was maintained that under the terms of appointment all employees must be prepared to work at any office to which he is posted. It was further alleged that the management was not aware of the Trade Union activities of the applicant and acted bona fide transferring the applicant from one place to the other. Finally, it was submitted that the claim of the applicant for compensation was not sustainable both in law

4. Reliance was placed on the form of appointment letter (Ex. 1) and it was held on the strength of the terms of appointment that the applicant was to work in any office of the Bank whenever required to do so as laid down in clause 3 of the terms and conditions of service. In the course of argument it was submitted that the Agent at Coimbatore was not getting full co-operation from the employees and in the interest of good administration some of the employees were transferred including the applicant to allow smooth working. On the legal aspect of the contention raised by the Bank reference was made to legal precedents in the following cases:

- (1) Hindustan Development Corporation Ltd. Vs. Their Workmen (Labour Law Journal—January 1951—Page 38)
- (2) Indian Hume Pipe Co. Ltd., Bombay and Their Workmen. (Labour Law Journal—June 1951—page 687)
- (3) Caledonian Printing Co. Ltd. and S. N. Dutta. (Labour Law Journal—July 1951—page 77)

Two of these authorities viz. decision in the case of Hindustan Development Corporation Vs Their Workmen (Labour Law Journal—January 1951) is not in point; and similarly the one published in Labour Law Journal—July 1951 relating to Caledonian Printing Company Vs. S. N. Dutta is also distinguishable inasmuch it relates to a case of resignation. Regarding transfer I have however held in some cases that transfer from one place to another in the same State under the same management does not amount to breach of Section 33. I still hold the same view. In this case furthermore under the terms and conditions of appointment it was incumbent upon the applicant to abide by the order of transfer and his grievance is rather bolstered up on irrelevant grounds. The complaint is devoid of any merit and the same is dismissed.

K. S. CAMPBELL-PURI, *Chairman,*
Central Government Industrial Tribunal, Calcutta.

CALCUTTA,

Dated 12th September, 1951.

[LR-90(140)]

N. C. KUPPUSWAMI, Under Secy.

